

KISHANGARH DARBAR'S REJOINDER

TO

THE JHALAWAR DARBAR'S CLAIM

TO THE

PROPERTY LEFT BY

The Late Ex-Maharani Rathorji of

JHALAWAR.

AJMER :

Scottish Mission Industries Company, Limited.

1927.

INDEX TO MEMORANDUM.

	MARGINAL NOTES.	PAGE.
	<i>1. Introductory.</i>	
(1)	Property in dispute	1
(2)	Nature of claim	1
(3)	Claim and Claimants	2
	<i>2. Jhalawar Darbar's claim</i>	2
(1)	Jhalawar Claim	2
	<i>3. Examination of Jhalawar Claim</i>	3
(1)	'State jewels'	3
(2)	Personal property 2 (a)	8
(3)	Cash property 2 (b) (i)	8
(4)	2 (b) (ii) Personal property, British Government Promissory Notes	11
(5)	2 (b) (iii) Savings from Jagir income and interest on Promissory Notes	12
	<i>4. Jhalawar Darbar's grounds of claim</i>	12
(1)	General observations	12
(2)	Summary of Claim (7 grounds)	14
	<i>5. Evolution of the Jhalawar grounds of claim</i>	16
	<i>6. Kishangarh Darbar's grounds of claim</i>	18
	<i>7. Points at issue (5 points)</i>	19
	<i>8. Examination and discussion of the Jhalawar Darbar's grounds of claim.</i>	
(1)	(Ground of claim No. 1)	20
(2)	Effect of deposition	21
(3)	Effect of dismemberment	22
(4)	Effect on property left by the Ex-Maharani	22
	<i>9. Ground of claim No. 2</i>	23
(1)	Jaisalmeriji	24
(2)	Guheliji	24
	<i>10. Ground of claim No. 3</i>	26
(1)	Effect of dismemberment on present Jhalawar	26
(2)	Effect of dismemberment on Ex-Maharani's relationship	27
	<i>11 Legal aspect of the case</i>	28
(1)	Legal aspect of the case	28
(2)	Sir Elliot Colvin's Award	28
(3)	School of Hindu Law applicable to Rajputana	29
(4)	Woman's estate	31
(5)	'State jewels' are Stridhan according to Hindu Law	33
(6)	Stridhan character of 'State jewels' not abrogated by any custom	37
(7)	Custom of Rajputana	37
(8)	Custom of the Jhalawar State	38
(9)	Dr. Sapru's opinion	38
(10)	Family custom or usage	39
(11)	State Custom improbable	40
(12)	Ex-Maharani not member of family	41
(13)	Effect of such custom	41
(14)	Sir Elliot Colvin's Obiter Dictum	41
(15)	Incidents of Ex-Maharani's personal property	42
(16)	Jewellery other than 'State jewels'	44

INDEX TO MEMORANDUM.

MARGINAL NOTES.	PAGE.
(17) Comparison of jewellery lists	44
(18) The sum of Rs. four lacs	46
(19) Jagir income and interest on Promissory Notes ...	47
(20) Dr. Sir Tej Bahadur Sapru silent regarding personal property	48
12. <i>Incidents of 'Benares property'</i> ...	48
(1) Problem stated regarding 'Benares Property' ...	48
(2) The Code of Manu	49
(3) The Code of Yajnavalkye and Mitakshara, etc. ...	50
(4) Bombay High Court judgment	51
(5) Vyavahar Mayukh and Virmitrodaya ...	52
(6) Circumstantial evidence regarding 'Benares property'	52
13. <i>Political nature of the case</i> ...	54
(1) Historical retrospect	55
(2) Deposition, a Supreme act of State ...	61
(3) First component part	61
(4) Second component part	64
(5) Third component part	64
14. <i>Adoption</i>	67
15. <i>Reversionary Right</i> ...	70
(1) Reversionary Right	70
(2) Interpretetion of Jhalawar Geneological table ...	71
(3) Other tables compared	72
(4) Two great mistakes in the Jhalawar pedigree ...	74
(5) Other inconsistencies	74
(6) Relative seniorities of Kola and Fatehpur ...	75
(7) Why adoption of Bakhat Singh from Wadhwan preferred	77
(8) Bakhat Singh related to Prithi Singh in 9th and not 8th degree	78
(9) Motive of preparing a false pedigree	78
(10) 'Madhavat' or 'Madanavat'	78
(11) Bhawani Singh's relationship to the Ex-Maharani ...	79
(12) Pedigree false and unreliable	79
16. <i>Grounds of Claim from 4 to 7</i> ...	80
(1) The fourth ground of claim	80
(2) The fi'th ground of claim	82
(3) The sixth ground of claim	82
(4) The seventh ground of claim	82
17. <i>Answers to the Points at Issue</i> ...	83
18. <i>Attested documents, etc.</i>	85
19. <i>Recapitulation</i>	86
20. <i>Conclusion</i>	90

Serial Number.	Names of Books.	Page of Memorandum.
1.	Aitchison's Treaties Engagements and Sanads Volume III, Edition 4th. Page 362 59 and 60. Page 364 4. Page 366 22, 26 and 59. Page 402 22 and 26.	
2.	Jhalawar State Papers Part II. Page 5 10. Jhalawar State Papers Part III. Page 10 4 and 77. Jhalawar State Papers Part III B. Pages 1 and 2 10.	
3.	Imperial Gazetteer of Rajputana Edition 1908. (Provincial Series)... 71. Page 388 26 and 55-56. ,, 390 26. ,, 399 21.	
4.	Chiefs and Leading Families of Rajputana, Edition 2nd, 1894. Page 80 73. ,, 87 63, 74 and 76. Chiefs and Leading Families of Rajputana, Edition 2nd, 1903. Page 73 78. ,, 74 26, 71, 72, 73 and 75.	
5.	Brandreth's Treatise on the Law of adoption in Rajputana Printed at Calcutta by the Foreign Department Press in 1871. Page 1 29. ,, 6 30. ,, 10 29.	
6.	Mayne's Hindu Law and Usage Edition 9th 1922. Page 7.....Article 9 64. Pages 18-26 30. Page 29 30. ,, 570 Article 407 31 and 52. ,, 724 .. 498 44 and 55. ,, 885 .. 604 44. ,, 886 .. 605 44. .. 916 .. 630 45, 47, and 84. .. 967 .. 65 33. .. 969 .. 658 46. .. 972 .. 660 36 and 47. .. 973 .. 662 36, and 46-47. .. 975 .. 663 46. ,, 976 46.	
7.	Grady's Hindu Law Edition 1868 Chapter LXVI. 64.	
8.	Holland's Jurisprudence 8th Edition 1896. Pages 362 and 363 31.	
9.	Dr. Gour's Hindu Code Edition II 1923. Page 1178 Article 289 43. ,, 1188 .. 2768 46 and 54. ,, 1189 .. 2769 19, 36, 46 and 65. .. 1193 .. 2799 45. .. 1198 .. 2793 44.	

Serial Number.	Names of Books.	Page of Memo- randum.
10.	Elements of Law by Justice Mark by Edition 4th, 1889.	35.
	Page 128 Article 244 ...	35.
11.	Tagore's Law Lectures, Edition 1878.	37.
	Pages 317 to 320 ..	37.
12.	Commentaries on Hindu Law by Bhattacharya Edition 2nd, 1893.	39.
	Page 51 ...	39.
	,, 521 ..	52.
	,, 570 ..	37.
	,, 574 ..	54.
13.	Macnaghten's Principles of Hindu Law compiled by P. C. Sen Edition 1884.	40.
	Page 33 ...	40.
	,, 195 ..	81.
14.	Waquai-Rajputana in Urdu, Volume III Edition 1879.	40.
	Page 356 ...	40.
15.	Mitakshara by Vijnaneshwar ...	29, 30 and 49
	Chapter I, placita 8 ..	50.
16.	Professor H. H. Wilson's Works Volume 5th.	51.
	Page 24 ..	51.
17.	Vyavaharmayukhi by Vijnaneshwar ...	29, 30, 49 and 50.
	Chapter IV Section 8 ...	52.
	Virmitrodaya Chapter I Section I, Placita 21 and 27 ...	52.
18.	Bombay Presidency Gazetteer Volume VIII Kathiawar, Edition 1884 ...	71 and 73.
	Pages 695-696 ..	56 and 80.
19.	Mayo College 'the Eton of India' by Herbert Sherring, Volume II Edition 1897 ..	73 and 76.
	Pages 243 ...	73.
20.	Jhala Vansh Waridhi, in Gujrathi (Hindi character) Edition year ...	74.
	Page 994 ...	74.
21.	Hind Rajasthan by Markand Nand Shankar Mehta and Manu Nand Shankar Mehta Edition 1st, year 1896 ..	71 and 73.
22.	Code of Manu ...	29.
	Chapter 9th Verses 184 and 185 ..	49.
	Verse 194 ..	50.
23.	Commentaries on the Code of Manu by Kullakbhatt ...	49 and 50.
24.	Tod's Rajasthan, Edition year 1884 ...	71.
25.	Native States of India by Sir William Lee Warner, Edition 1910 ...	63.
	Page 114 ...	63.
26.	Golap Chandra Sarkar's Translation of Virmit rodaya, Page 221, Edition 1910 ...	83.
27.	Code of Yajnavalkaya, Chapter II Stanza 148 ...	29.
	...	50.

Serial Number.	Number, Date and Subject of the letter referred to.	Page of Memo- randum.
1.	D. O. letter No. C 285, dated the 21st September, 1923, from the Chief Member of Council, Kishangarh to the Resident at Jaipur forwarding a copy of the inventory of the property left by the Ex-Maharani Rathorji	1.
2.	D. O. letter No. 66 C dated the 17th June, 1922, from the Chief Member of Council, Kishangarh, to the Resident at Jaipur making remarks on the Jhalawar Darbar's claim	1, 17, 18, and 32.
3.	Letter No. 270 dated the 28th February, 1919, from the Foreign Member Jhalawar State Council, to the Political Agent Kotah and Jhalawar forwarding their grounds of claim	1.
4.	Letter No. 494 dated the 2nd November, 1907, from the Dewan of Jhalawar to the Political Agent, Kotah and Jhalawar regarding the Jhalawar State Jewels in possession of the Ex-Maharani Rathorji ...	3, 6, 16, and 38.
5.	Letter No. 1381 dated the 15th September, 1922, from the Administrator Jhalawar State to the Secretary to the Hon'ble the Agent to the Governor-General, Rajputana, asking for the inventory of the property left by the Ex-Maharani Rathorji, and pointing out the discrepancy as regards the Promissory Notes received by her from Benares	11.
6.	Letter No. 3193 dated the 14th August, 1923, from the Agent Imperial Bank of India to the Chief Member of Council, Kishangarh, stating that the securities belonging to the Ex-Maharani cannot be dealt with without letters of Administration granted by a competent British Court	12.
7.	D. O. Letter No. 1395 dated the 27th December, 1918, from the Foreign Member Jhalawar State Council to the Political Agent Kotah and Jhalawar regarding Promissory Notes worth Rs. 1,17.700/- inherited from the late Ex-Maharaj Rana Zalim Singhji	16, 18, 27, and 43.
8.	D. O. letter No. 20/M dated the 14th January, 1919 from the Chief Member of Council Kishangarh to the Foreign Member State Council, Jhalawar, in reply to his No. 11 dated the 5th January, 1919	18.
9.	Telegram dated the 13th September, 1900, from the Kamdar to Ex-Maharani Rathorji to the Dewan Kishangarh, regarding Guheliji's property	25.

CORRESPONDENCE REFERRED TO IN THE MEMORANDUM.

Serial Number.	Number, Date and Subject of the letter referred to.	Page of Memo- randum.
10. Telegram dated the 10th November, 1900, from the Ex-Maharani Rathorji's Kamdar to the Dewan Kishangarh, stating that Bhawani Singhji and Dewanji trespassed Bai Sahiba's (Ex-Maharani Rathorji's) Deorhi and broke the locks of Guheliji's apartment	25.	
11. Letter No. 370 dated the 19th June, 1913, from the Dewan, Jhalawar State, to the Political Agent Kotah and Jhalawar regarding the sum of Rupees four lacs given by the Ex-Maharaj Rana Zalim Singh to the Ex-Maharani	8.	
12. Letter No. 11, dated the 5th January, 1919, from the Jhalawar Darbar to the Kishangarh Darbar asking for a list of the property left by the Ex-Maharani Rathorji.		17.

DOCUMENTS REFERRED TO IN THE MEMORANDUM.

vii

Serial Number.	Document.	Page of the memorandum.
1.	The will executed by the Ex-Maharani Rathorji dated the 21st December, 1918 ...	1, 2, 13, 25, and 85.
2.	Deed of Gift executed by the Ex-Maharaj Rana in favour of the Ex-Maharani Rathorji	35, 42, 85, and 85.
3.	Award of Sir Elliot Colvin of March 20th, 1914	3, 11, 15, 19, 20, 22, 28, 41, 48, and 82.
4.	Translation of Kharita dated the 3rd December, 1900, from Colonel Barkeley, the Political Agent, Kotah, to the Ex-Maharani Rathorji of Jhalawar regarding Guheliji's property	25, and 85.
5.	The list of Jewellery dedicated to the Temple of Gusainji of Kotah by the Ex-Maharani in her own hand-writing	10, 47, and 85.

MEMORANDUM.

1. Introductory.

The Ex-Maharaj-Rana Zalim Singh of Jhalawar died in Benares on the 8th of October, 1912. His surviving wife, the Ex-Maharani Rathorji, died in Kishangarh on the 21st of December, 1918.

The property which the late Ex-Maharani owned at the time of her death consisted of:—

- (1) Lands and Jagir villages, partly in Kotah and partly in Jhalawar, which lapsed automatically to the parent States in accordance with the custom in Rajput Ruling families.
- (2) Jewellery ; as per list forwarded by the officiating Chief Member of Council, Kishangarh, with his D. O. letter No. C 285, dated the 21st September, 1923. (Annexure No. 1, Pages No. I-X) and sundry articles of house-hold use, and cash etc.
- (3) $3\frac{1}{2}\%$ Government Promissory Notes of the face value of Rs. 1,53,700.

She left by Will to her brother's son, H. H. the present Maharajah of Kishangarh, the whole of the above-mentioned movable property, which consequently came into the possession of the Kishangarh Darbar, and has been in their safe custody ever since. (vide Chief Member of Council, Kishangarh's D. O. letter to the Resident Jaipur, No. 66 C. dated the 17th June, 1922, Paras 2, 3, and 4, (Annexure No. 2 Pages, No. XI-XIII). The property included in the Jhalawar Darbar's claim will be detailed later; but roughly speaking, it also consists of jewellery and cash, though variously stated. His Highness the present Maharaj Rana of Jhalawar claims the jewellery as being 'State Jewels', 'given to the lady from time to time for her use only', and, as such, according to the custom of the State, restorable to the State Toshakhana. His claim to the rest of the estate is based, according to Hindu Law, on his being the nearest agnate to the pre-deceased husband of the Ex-Maharani.

Property in dispute.

Nature of claim.

Claim and
Claimants.

In short, the present dispute is in respect of the movable property left by the Ex-Maharani Rathorji, and the claimants are H. H. the Maharajah of Kishangarh and H. H. the Maharaj Rana of Jhalawar. The former, on the one hand, claims the whole of the said property which is in possession of the Kishangarh Darbar, under a Will, a copy of which and its English translation are given as Annexure No. 3, Pages No. XIV-XV. The latter, on the other hand, bases on custom and Hindu Law, his claim to the property, as alleged by the Jhalawar Darbar in their memo, No. 270, dated the 28th February, 1919, (Annexure No. 4 Pages XVI-XXIV).

2. Jhalawar Darbar's Claim.

Jhalawar claim.

To obtain a full idea of the property supposed by the Jhalawar Darbar to be in dispute, reference is invited to their Foreign Member's letter No. 270, dated the 28th February, 1919, addressed to the Political Agent, Kotah and Jhalawar, which is given as Annexure No. 4, Pages No. XVI-XXIV. It appears from it, that the following movable property alleged to have been left by the Ex-Maharani Rathorji at the time of her death, is claimed by the Jhalawar Darbar:—

- (1) State jewels that were given from time to time to the Ex-Maharani Rathorji for her use only, as per their list enclosed with the letter quoted above. (Annexure No. 4, Pages XVI-XXIV).
- (2) Personal property alleged to be of considerable value, left by her at the time of her death, including:
 - (a) Jewellery other than 'State Jewels', and other articles, and
 - (b) Cash property.

The cash property 2 (b) consists of:—

- (i) A sum of Rs. 4,00,000/- (four lacs) said to have been 'left in charge of the late Ex-Maharani' by the late Ex-Chief;

- (ii) British Government Promissory Note on the face value of Rs. 1,71,700/-, and cash about Rs. 4208/-, and certain articles, received by the Ex-Maharani under the Award of Sir Elliot Colvin in March 1914.
 - (iii) Savings from the income derived from her Jagir granted to her for life on her marriage, and continued to her after the Ex-Maharaj Rana's deposition, under the orders of the Government of India, together with interest that has since accrued on the Government Securities.
-

3. Examination of Jhalawar Claim.

First then regarding the 'State Jewels.'

To appreciate how the claim regarding the jewellery was first conceived and gradually developed and elaborated, it would be well to remember a few facts. The Ex-Maharaj Rana Zalim Singh was deposed from the Gaddi of Jhalawar on 2nd March, 1896, and lived at Benares from the 17th March, 1896, until his death on 8th October, 1912. The Ex-Maharani Rathorji, with the permission of the Political Agent, left Jhalawar on 12th January, 1906, to live with her husband at Benares. Being invited by her nephew, the Maharajah of Kishangarh, and with the consent of both the Political Agent and the present Maharaj Rana of Jhalawar, she came to stay, on 12th September, 1906, at Kishangarh, which she afterwards decided to make her permanent home for the rest of her life. After the expiry of nearly $21\frac{1}{2}$ months from the date of her leaving Jhalrapatan, when the Jhalawar Darbar found that the lady was averse from returning to them, they began to show uneasiness about the jewellery in her possession, and the first step they took was to inform the Political Agent in their Dewan's letter No. 494, dated the 2nd November, 1907, copy of which is given as annexure No. 5, on Page No. XXV.

'State Jewels.'

In this connexion it is pertinent to remember that the Jhalawar State, as it was at the time of the deposition of the Maharaj Rana Zalim Singh, remained in charge of the Political Agent, and was for nearly

three years from March 1896 to February 1899, administered by him under the orders of the Government of India. If there was the least suspicion that the Ex-Maharani was possessed of any 'State jewels of considerable value' which were restorable to the State before its dismemberment, it seems certain that the Political Agent who was discharging a trust, could not have possibly allowed to pass un-noticed this important matter. In unsettled times such as were the lot of Jhalawar during the interregnum, it is impossible to believe that rumours, false or true, regarding the jewellery may not have reached the Political Agent's ears. At any rate, that there was nothing on record in the Kotah Agency Office until the year 1907, is clearly proved from the trend of the correspondence that passed between the Political Agent and the Jhalawar Darbar in respect of the alleged 'State jewellery.'

The Maharaj Rana Bhawani Singh was himself installed as the first Ruler of the new Chiefship of Jhalawar, created under the Sanad granted to His Highness by H. E. Lord Curzon, and was invested with powers on 6th February, 1899. The Ex-Maharaj Rana Zalim Singh was the last Chief to rule over Jhalawar, as the State was constituted under the Treaty of 1838 (vide Aitchison's Treaties, Engagements & Sanads, Vol. III, Edition IV, page 364), (Annexure No. 6, Pages No. XXVI-XXVII). It is notorious that the relations of the new Chief and the Ex-Maharaj Rana, before and after the former's investiture, were never of the best. The Ex-Chief regarded the present Maharaj Rana as a pretender to the throne of Jhalawar, and his enemy, directly responsible for his downfall and deposition. (See Annexure No. 7, Pages XXVIII-XXIX, extract from page No. 10, Part III of Jhalawar State Papers). It is not in human nature, that the Ex-Maharani could possess very friendly feelings towards H. H. the present Maharaj-Rana, and vice versa. The constant bickerings that went on between the Maharaj Rana and the Ex-Maharani during her stay in Jhalawar for nearly ten years after her husband's deposition, would lead one to expect that the present Jhalawar Darbar would not have allowed grass to grow under their feet so

long without a note of complaint. This would have been one more, and rather very important matter to be reported against the Ex-Maharani. But they kept quiet. In the circumstances, with embittered feelings openly exhibited on either side, to which the Political authorities were fully privy, it is merely a lame excuse to say that the question was not opened because 'there was no objection to the Ex-Maharani retaining the jewels, as they were only for her use during her life,' and that she was allowed to retain them because she, along with the Junior wife of the Ex-Chief, continued to "reside under the protection of the Maharaj Rana, the present head of the Ruling family." Protection, forsooth! It is preposterous to talk of such protection, while yet her husband, though deposed, was in the land of the living, and to reside with whom it was not in the power of the Jhalawar Darbar to prevent. How thin was the protection, and how galling it was to the lady, is shown by the fact that as soon as H. H. the present Maharajah of Kishangarh got his powers of administration in December, 1905, she straightway sought shelter in her nephew's family, and lived between Benares and Kishengarh the rest of her life.

Those who know Rajputana custom, which is indeed universal in Hindu families all over India, will only regard as the most ordinary thing for His Highness the Maharajah of Kishangarh to do, that, in inviting his aunt who was then residing with the present Jhalawar Chief, he should write to him courteously asking his consent to the Rathorji's visit. But that does not imply that the Kishangarh Maharajah recognised, that the Maharaj Rana Bhawani Singh was the head of the joint family of which the Ex-Maharani was a member, or that the present Chief's permission was indispensable to the Ex-Maharani's leaving Jhalawar on any other than a social visit abroad. Similarly, to assume that the Ex-Maharani's sending of a condolence deputation charged with a courteous message of sympathy implied anything more than indicative of good manners, high breeding, and customary procedure, would be hardly consistent with the relations between the present Chief of Jhalawar and the Ex-Maharani. which have been described above.

It is also submitted that the present Maharaj-Rana is not competent to take up the question of jewellery which is related to the old Jhalawar State prior to his installation, and which, the Political Agent during the interregnum did not care to touch or open.

In the Jhalawar Dewan's letter of November, 1907, addressed to the Political Agent, which is the first communication of its kind (Annexure No. 5. Page No. XXV), it is stated very cautiously, and equally vaguely, that "the Maharani Rathorji has in her possession *a number* of State jewels which, in accordance with the custom of the State, were given to her for *her use only*," and further, "that she has entrusted *some* of the said jewels to the care of the Gushain of Muthranathji's temple at Kotah." Proceeding, the Dewan says in the same letter, "as the jewels are very valuable, the Darbar have thought it proper to address her through you and to ascertain the facts of the case". If A has a case against B, B surely is the last person to be depended upon by A to supply information of facts in support of his own case. It is significant that, at the time of making the request to ascertain facts, the Jhalawar Darbar furnished no list to their Political Agent. Merely stating that there were a *number* of 'State jewels,' does not solve the mystery about the number, and to add, that *some* of the said jewels were disposed of in a particular way, tends to mystify the matter, and only proves that the Jhalawar Darbar had nothing precise to say. It is an example of the Jhalawar Darbar's utter disregard of stating their case straight-forwardly and with any degree of accuracy. It is ridiculous to ask for the safe custody of the 'Jewels' when there was such colossal ignorance about them.

Then again, one would expect greater care in dealing with the matter, as the jewels were understood to be very valuable. What action the Political Agent took, it is not possible for the Kishangarh Darbar to say, but as mostly, after her coming to stay at Kishangarh in 1906, the correspondence between the Ex-Maharani Rathorji and the Political Agent Jhalawar, was carried through the Jaipur Residency and the Kishangarh Darbar, and as, in the records of the late Ex-Maharani

no document has been found alluding to the subject, it is safe to assume that no action whatever was taken, or, at any rate, the Ex-Maharani was neither asked nor gave any statement in writing in this connection to commit herself. In the Jhalawar memorandum of 28th February, 1919, (Annexure No. 4, pp. XVI—XXIV) it is stated that in 1908, the accompanying list was supplied to the Political Agent Kotah and Jhalawar *at his request.*" It is not easy to see why particular stress is laid on the words "at his request". It would seem perfectly natural on the part of the Political Agent to demand the list—which should have been really supplied before without being asked for if it was ready—, when he was particularly importuned to render help in ascertaining the facts and arranging for the safe-keeping of the jewellery. Anyway, the list was supplied in 1908, and was perhaps, for some time, in the melting pot. The list, even as it is, is defective, for, it does not mention the dates of issue and the prices of the articles, nor does it give any description which may help to identify them; though, in the Jhalawar Foreign Member's letter to the Political Agent Jhalawar dated the 28th February, 1919, the list is pompously described as "a list of State jewels that were given *from time to time* to the Ex-Maharani (Maji ?) Rathorji saheba for her use only." The list forwarded with this letter of February 1919, ought to be the same which was prepared during 1907-08, but the Kishangarh Darbar cannot be sure. (See Annexure No. 4, pp. XVI-XXIV). The presumption must, nevertheless, be reduced to a certainty by a searching comparison of these two Jhalawar lists.

The list above referred to contains in all 40 articles of jewellery, out of which 26, may perhaps, be identified on the Kishangarh list. Out of the 26, 22 are such as may be put at values below Rs. 5000, (See Annexure No. 29 Pages LIX-LX). It would be a misnomer to call many of these low-priced articles 'State jewels', and it is only by a stretch of imagination that the gold and silver articles in the Jhalawar list could be also thrown in the category of 'State Jewels'. But of this more in its proper place. These remarks might however suffice to give an idea of the nature of the Jhalawar claim under the heading 'State Jewels.'

Personal property
2 (a).

Next in order comes the Jhalawar claim about personal property 2 (a), *viz.*, Jewellery other than the so called 'State Jewels.' The Jhalawar Darbar have filed no list of the property, but would depend upon the list furnished by the Kishangarh Darbar. It is mostly the legal aspect of this property that calls for remarks, and this subject will be dealt with later.

Cash property
2 (b) (i)

Then comes the claim about cash property, in which the first item which requires consideration is 2 (b) (i), *viz.* the sum of four lacs, said to have been left in charge of the late Ex-Maharani by the late Ex-Chief. So far as the Kishangarh Darbar are concerned, no more need be said about this matter excepting, that no such amount has come into their possession. They are not answerable for it, nor is it possible for them to say what the Ex-Maharani did with it, and whether she received the same during her lifetime from the Ex-Chief, either to be held in his name or disposed of by her as she pleased. As however, in advancing this claim there is a faint suggestion that the same four lacs or part of it, may have been handed over or bequeathed by the Rathorji to the Maharajah of Kishangarh, it becomes necessary to prove its utter hollowness, and to expose the method of the Jhalawar Darbar in bolstering up knowingly, a claim of this description.

Be it remembered then, that the earliest mention of this sum of Rs. four lacs is made in the Jhalawar Dewan's letter No. 370, dated the 19th June 1913, reference to which is made in the Jhalawar Darbar's letter to the Political Agent Kotah, dated the 28th Feb. 1919 (vide Annexure No. 4, Page XVI). There was great meaning in choosing June 1913, as the most propitious time to rake up this matter. The Ex-Maharaj Rana had died at Benares in October 1912, nearly 9 months before, and there was none, now living, to tell the tale and clear up the mystery in regard to this sum. Political Agents come and go, and the Political Agent of Jhalawar in June, 1913, was hardly expected to know what happened in the time of his remote predecessor who presided at the Kotah Agency in 1895, nearly 18 years before. It is interesting to note, that while the matter of the jewels which are alleged to have been in the possession

of the Rathorji for her use only, was taken up by them in 1907, soon after her departure from Jhalawar, reasons being given for not opening the question earlier, the Jhalawar Darbar have waited until the year of grace 1913, to make first mention to this sum of 4 lacs. It will be noticed that this sum also, they allege, was left in charge of the Rathorji by her husband ; but they have given no reason why they allowed more than $5\frac{1}{2}$ years to elapse in this case considering that the cause of action in both matters arose about the same time.

The unvarnished story is this. About the middle of August, 1895, the Maharaj Rana Zalim Singh, when on the Jhalawar Gaddi and in the enjoyment of full ruling powers, sanctioned a sum of $4\frac{1}{4}$ lacs for expenses in connexion with Her Highness the Maharani Rathorji's condition, Captain Evans Gordon, the then Political Agent in his letter of 21st September, 1895, *Vide Annexure No. 8, Pages XXX-XXXIII*, asked for an answer from the Maharaj Rana regarding this unusual and exorbitant demand on the State treasury, claiming a free and full explanation under the terms of Lord Elgin's Kharita, dated the 30th June, 1894, which restored full powers of administration to the Maharaj Rana. To this letter of September, 21, 1895, the Maharaj Rana Zalim Singh replied on December 23rd, 1895, "to say that the money was not surreptitiously taken from the Treasury, but by means of a Public order, and duly entered as such in the Public Accounts." H. H. says, "it was my duty to make presents to Her Highness the Maharani, and the expenses were considerable. You are aware that the expenditure on marriages and other ceremonies among us, such as the present, is apt to be very great in Rajputana, and western India generally. I do not personally approve of such lavishness, yet the position of Her Highness the Maharani as the daughter of the Maharana (?) of Kishangarh compelled me to incur a greater expense than I might have otherwise done. You have asked me to state in detail the manner in which the money has been spent. I am sorry to say, it is impossible to do so, as the money has been made a gift of to Her Highness the Maharani Saheba in anticipation of the birth of a son, and as such, according to the Hindu Shastras

a gift cannot be taken away." With this gloss, it would seem a perversion of facts to allege that the sum was left in charge of the late Ex-Maharani Rathorji. (Vide Jhalawar State papers Part II, Pages 5 & 9 ; and Part III B, Pages 1 & 2) (Annexure No. 8, Pages XXX-XXXIII.)

The extracts just quoted, have not been made with any intention of justifying the late Ex-Chief's action, which could not be regarded otherwise than as an indiscretion, and a great political and administrative blunder. But the fact remains that the Government of India were fully aware of this matter, and if they had thought it politic or expedient, they could have, while holding charge of the State for three years preceding the formation of new Jhalawar, easily made the deposed Maharaj Rana, disgorge this sum of Rs. 4,00,000. They were however, much too generous to punish a fallen Prince twice over, for mal-administration. The present Chief of Jhalawar, and particularly his late Dewan who was an actor in the drama, the last curtain of which fell on the deposition of the Maharaj Rana Zalim Singh, must be held to have possessed in the year 1913, when they took this matter in hand, full knowledge of the transaction. The reasoning, on circumstantial evidence, clearly points to the four lacs included in the Jhalawar claim, to be identical with the four and quarter lacs alluded to in the Jhalawar State papers. Why then have the present Jhalawar Darbar reduced their claim by quarter of a lac, and styled the sum as having been left 'in charge of the late Ex.-Maharani', in face of the facts clearly stated above and fully known to them? The answer is obvious. There could be no better example of *suppressio veri*, which is, at the same time *suggestio falsi*.

There is no shadow of doubt that the sum of $4\frac{1}{4}$ lacs was a free gift to the Ex-Maharani from her husband, and that it was her personal property over which she had absolute control ; and as, incredibly large and munificent were her benefactions, charities and religious endowments, and as, she spent enormous sums on various long and short pilgrimages, it is most reasonable to infer that the said amount never so big for such purposes, may have easily melted away in the course of time (see Annexure No. 9, page No. XXXIV).

Anyone who offered to help her husband to regain *the Gaddi*, whether a legal shark, or a charalatan, could easily rob her to the tune of a few thousand rupees. But more of this will be treated in the sequel. It must also be borne in mind that this matter like that of the jewels, refers to the Jhalawar State, anterior to Maharaj Rana Bhawani Singh's selection as Ruler to a newly formed State, and it follows that His Highness is not entitled to reopen it when it had received its quietus during the Agency régime. And what was there to prevent the Jhalawar Darbar from suing the Ex-Chief during his life-time for the sum of 4 lacs, as it was he, and not the Rathorji, who was, if at all, responsible for taking the money out of the State Treasury ?

The next claim under personal cash property is 2(b) (ii), regarding Government Paper of the face value of Rs. 1,71,700/-, and cash worth Rs. 4,208/-, and certain articles left by the Ex.-Maharaj Rana at the time of his death in Benares, which the Ex-Maharani received under the Award of Sir Elliot Colvin in 1914. It has been already admitted in *Para. 2, Page 1*, of this memorandum that the $3\frac{1}{2}\%$ Promissory Notes which came into the possession of the Kishangarh Darbar bore the face value of Rs. 1,53,700/-, and not Rs. 1,71,700/-. It is true, that under the Award of Sir Elliot Colvin, the Government paper received by the Ex.-Maharani was of the face value of Rs. 1,71,700/-. In March 1916 however, she made over Promissory Notes worth Rs. 18,000/- to the Temple of Srinathji in Kishangarh for the purpose of a religious endowment. In September 1917, the transfer endorsement of these very Promissory Notes was, as required by the Public Debt Office, verified by Col. Benn, the then Resident at Jaipur. Now as Administrator of Jhalawar, Col. Benn has made a caustic remark in his letter No. 1381 dated 15th September, 1922, pointing out this apparent discrepancy (*vide Annexure No. 10 Page XXXV*), the above-mentioned explanation is given to clear up the doubt. The Rs. 4,208/- in cash, which were also included in the Award, must have evidently been mixed up with the other cash of the Lady, and spent by her. The rest of the property, consisting of sundry articles, was partly sold by auction at Benares, and partly at Kishangarh, and what was

Personal Property—Br. Govt. Promissory Notes etc. (2) (b) (ii).

ultimately left was too trifling and valueless to be worth anybody's thought or care.

Savings from
Jagir income &
interest on Pro-
missory Notes, 2
(b) (iii)

The next and the last item of claim is 2 (b) (iii), namely, the savings from the income derived from her Jagir, and the interest accruing on the Promissory Notes.

Regarding the savings from Jagir income made during her life, nothing definite can be said. But as she was her own master, it was fully within her power to devote it to maintain her establishment and support her dependants, and keep up her charities according to her exalted position. Such revenue as was collected from her villages during the year the Ex-Maharani died, and other savings from her Jagir income, which all remained in her private treasury at Jhalrapatan at the time of her death, were confiscated by the Jhalawar Darbar, who ought to know the exact amount of such collections and savings. The Kishangarh Darbar are only aware of the savings which have accrued from the interest on the Promissory Notes worth Rs. 1,53,700/- which was collected half-yearly, by the Alliance Bank of Simla up to December, 1922. The Imperial Bank, Ajmer, have since, held the Promissory Notes in custody, but for reasons stated in their letter No. 3,193 dated 14th August, 1923 they have refused to collect interest (see Annexure No. 11 Page No. XXXVI). These accumulations of interest from 21st December, 1918 to December, 1922, were in the nature of Savings Bank Deposits yielding interest at 5 p.c. per annum.

4. Jhalawar Darbar's Grounds of Claim.

General
Observations.

A full statement of Jhalawar Darbar's grounds of claim is embodied in their Foreign Member's letter to the Political Agent Kotah, No. 270, dated the 28th February, 1919, and the memorandum which is enclosed with it (vide Annexure No. 4 Page XVI).

From a careful inspection of the memorandum, it appears that the Jhalawar Darbar, would have the

property left by the Ex-Maharani Rathorji classified as under :—

- (1) State jewels.
- (2) Personal property and
- (3) Property which the Ex-Maharani held from her husband.

The claim to the ‘State Jewels’ is founded on the custom of the Jhalawar State, which it, is alleged, prevails generally in all the States of Rajputana ; while the grounds, to inherit the other property classed 2 and 3, are based on the Hindu Law of inheritance, supported by the custom, obtaining among the Ruling Houses of Rajputana, regarding the devolution of property left by ladies of the family. It should not be supposed that, though in the above classification it is not mentioned expressly by that name, the Jhalawar Darbar were unaware of the legal existence of the estate of a widow, which is her peculium or what is called “Stridhan proper” under the Hindu Law, and over which she has absolute control. It will be shown in the discussion which follows, that what the Jhalawar Darbar have called personal property is identical with “Stridhan” properly so called.

Dr. Sir Tej Bahadur Sapru, when his opinion was sought by the Jhalawar Darbar in February 1919, foresaw the difficulty of claiming the whole of the property left by the Ex-Maharani, on the plea of the Maharaj Rana Bhawani Singh’s being the nearest kinsman of her husband. Like a shrewd lawyer, he must have at once guessed that the bulk, if not the whole property, was presumably ‘Stridhan,’ over which she possessed unlimited right of disposal. Suspecting also, that the Ex-Maharani had made a Will, his main effort seems to be to show, how much of this property could be reasonably hoped to be rescued for his client. In his written opinion, he therefore, expressly concentrates all his attention on the two particular properties left by the Ex-Maharani, viz classes 1 & 3, and principally the latter. The more important one *i.e.*, class (3) is, what he calls the estate consisting of the accumulations of the savings out of the allowance of the Ex-Maharaj Rana, contributed by the Kotah and the Jhalawar Darbars, and the

other *i.e.*, class (1) is the jewels, which he (Sir Tej Bahadur) is given to understand are "State Jewels," returnable to the State Toshakhana, according to the custom of the State; but he pointedly remarks that the local custom is 'a question of fact' and, must be proved. By studiously avoiding in his legal advice all mention of the rest of the property classified as "personal property" which must include jewellery other than State jewels and, other property which did not descend to her from her husband, the learned counsel has admitted, by implication, that so far as this class of property is concerned, the Jhalawar Darbar have no case whatever supported either by law or local custom (see Annexure No. 4 Page XIX).

Summary of the claim.

After the above observations, the grounds of the Jhalawar claim may be summarised as under (see Jhalawar Darbar's Memorandum Annexure No. 4 Page No. XVI) :—

- (1) That the present Jhalawar Darbar succeeded to all movable property of the Jhalawar State as it was originally constituted in 1838; and the fact, that the State was on the deposition of the Ex-Maharaj Rana Zalim Singh broken up, and a large portion of it was assigned back to Kotah, could not in any way affect the present Chief's right of succession (see Jhalawar Memorandum, Annexure No. 4, Page XVII section 1, clause 1).
- (2) That the present Chief of Jhalawar came into undisputed possession of all the movables of Guheliji, Jaisalmeriji and Khawas Gulbaghji on their deaths, which occurred after the Maharaj Rana's deposition, and that the latter or the Ex-Maharani Rathorji raised no objection whatever, as regards the movables left by Guheliji who was a co-wife occupying exactly the same legal status as Rathorji (Jhalawar Memorandum, section 3, clause 3, Annexure No. 4, Page XVII).
- (3) That the present Maharaj Rana was legally adopted by the widow of the Maharaj Rana Madan Singh, the founder of the original State, and was otherwise the

nearest agnate entitled to inherit the Ex-Maharani's personal property, and the property which she held from her husband and could not validly dispose of by Will or otherwise. (Jhalawar Memorandum sections 3 and 4, Annexure No. 4, Page No. XVIII).

- (4) That first, as the Ex-Maharani resided in Jhalawar under the protection of His Highness, the present head of the ruling family, and secondly, as at the special request of His Highness the Maharajah of Kishangarh, who wrote to the present Maharaj Rana taking him to be the head of the Jhalawar Ruling family, the Rathorji was allowed to visit Kishangarh, and that since this visit was of a social nature, the Jhalawar Darbar raised no objection to her retaining the State jewels for her use until her death, in December 1918 : the Ex-Maharani having also in October 1918, fully and unequivocally recognised her relationship with the Maharaj Rana by sending a deputation conveying in writing a message of condolence (see Jhalawar Memorandum section 1, clauses 2, 4, 8, Annexure No. 4 Pages XVII-XVIII).
- (5) That the Jhalawar Darbar asserted their right to the jewels by the fact that enquiry was made about them in 1907 and 1908 (Jhalawar Memorandum section 1, Paras 5 and 6, Annexure No. 4 , Page XVIII).
- (6) That Sir Elliot Colvin's Award related only to the personal property of the Ex-Maharaj Rana left at Benares, and not to the 'State jewels' in the possession of the Ex-Maharani, about which Sir Elliot observed "had the property in question been state jewels or other property which passed in succession from one Chief to another, the Jhalawar Darbar might have

been able to make good their claim." (Jhalawar Memorandum section 1 clause 7 annexure No. 4. Page No. XVIII).

- (7) That the 'State jewels' were not, according to the custom prevailing among the Ruling houses of Rajputana, the personal property of the Ex-Maharani, who was therefore incompetent to dispose of them (Jhalawar Memorandum section 2. Annexure No. 4, Page No. XVIII).

It will be seen that the grounds of claim from 1 to 3 apply generally to all the personal property left by the deceased Lady; while those from 4 to 7 relate exclusively to the so called "State jewels."

5. Evolution of the Jhalawar Grounds of Claim.

Before actually discussing the merits of the Jhalawar Darbar's grounds of claim *seriatim*, it would be instructive to follow the gradual stages through which they have passed before finally emerging in the form in which they have been embodied in the Jhalawar Memorandum of 28th February, 1919 (Annexure No. 4, Page No. XVI). To illustrate this, attention is invited to the Jhalawar letter addressed to the Political Agent, Kotah, dated the 27th December, 1918, (Annexure No. 12, Page No. XXXVII) which is exactly 6 days after the death of the Ex-Maharani. Therein, after recounting the property "inherited from the late Ex-Maharaj-Rana, and the State jewels of considerable value for her use only", the Foreign Member, in the 3rd para. says, "now as she dies intestate, His Highness is according to the customs of Rajputana entitled to inherit *her property* as the *only heir* thereto." Obviously "her property" meant both State Jewels and other property, and in the belief that the Ex-Maharani had died without leaving a Will, the customs of Rajputana were invoked to secure the inheritance of her property to the present Maharaj-Rana, for want of other heirs. It should not be forgotten that in the Jhalawar Dewan's letter (Annexure No. 5, Page No. XXV) to the Political Agent, Kotah, where 'State jewels' are for the first time

mentioned, they are said to have been "given to her for her use only in accordance with the *custom of the State*". So it will be seen, that the issue of the jewels in the opinion of the Jhalawar Darbar is in accordance with the *custom of the State*, viz. Jhalawar, while their restoration after the wearer's death, is claimed according to the 'Customs of Rajputana, i.e., all Rajput States including Jhalawar. The confusion needs no comment. Immediately after, follows the 4th para. which runs "the State jewels are, *in any case*, restorable to the State Obari." The use of the words 'in any case', is significant, and could only be justified on the assumption that the Jhalawar Darbar were sufficiently aware of the existence of the Will, and have more or less admitted that in the alternative event of testacy, they lay no claim to the other property excepting what they call 'State jewels'. At any rate, the use of the words, 'As she has died intestate', is tantamount to the admission that the Ex-Maharani was competent to make a Will in respect of all her personal property excepting the Jewels. This point has been dealt with in paras. 6 and 7 of the Kishangarh Darbar's letter to the Resident, Jaipur, dated the 17th June, 1922 (Annexure No. 2, Pages No. XI-XIII.)

Even about the 'State jewels', the Jhalawar Darbar's ideas seem to be far from clear. In para. 2 of their Foreign Member's letter to the Chief Member, Kishangarh, dated the 5th January, 1919, the jewels have been styled as 'precious jewels belonging to the Jhalawar Treasury,' (*vide Annexure No. 13, Page XXXVIII*). It has been already remarked before with respect to the list forwarded by them to their Political Agent under No. 270, dated the 28th February, 1919, that the same contains ornaments of lady's wear of such inferior value as to hardly deserve the name of 'State Jewels' (See supra, page 7, para. 2). The inference is clear that the Jhalawar Darbar mean by 'State Jewels', all articles and sundry, which have at any time been issued from their State Treasury. Costly wedding presents made by a Ruling Prince to his wife are invariably in their origin, property belonging to the State Toshakhana, and is it suggested that these and similar presents made afterwards during

coverture are "State jewels" first and last?. A more incongruous definition of what is understood strictly by the term 'State jewels', it would be impossible to imagine. Among 'State jewels', one naturally looks for jewellery very costly, rare, and such as is worn on special State occasions, and which is lent to the wearer on the distinct understanding that it is returnable to the Treasury at any time. An article which, to commence with is a State jewel, is apt to acquire by long possession the incidents of a gift; and a valuable ornament which is given years before and does not necessarily remain a 'State jewel', simply because it is claimed as such at death. (See Infra, under 'custom of Rajputana,' page 37).

Between the Jhalawar letter, dated the 27th December, 1918, and their letter of 28th February, 1919, there is an interval of three months, which has permitted of legal consultation, the result of which is the grounds of claim as finally elaborated in their Memorandum of February, 1919. Before this, there was no mention of a childless widow having limited rights in her estate, or of the present Maharaj Rana as being the nearest agnate to her husband, and as such, entitled to succeed to her personal property according to Hindu Law, and not according to the custom of Rajputana, as stated before. The nature of the grounds of Jhalawar claim need not for the present be scrutinized further.

6. Kishangarh Darbar's Grounds of Claim.

In contrast to the vacillation displayed by the Jhalawar Darbar in stating the grounds of their claim, the Kishangarh Darbar have consistently maintained from first to last that the whole property of the Ex-Maharani, excepting the Jagir villages, was her personal property over which she had absolute right of disposal (*vide* Para 3 of Kishangarh letter No. 20-M., dated the 14th January, 1919, and Paras. 6 and 11, of the Kishangarh letter No. 66-C., dated the 17th June, 1922 (Annexure Nos. 14 and 2, Pages Nos. XXXIX and XI). In other words, whether it was the jewels and cash amounts, which she received during the Ex-Maharaj Rana's life-time, or whether it

was the Promissory Notes and other property which came into her possession after his death, together with the savings from her Jagir revenue and the interest on the Promissory Notes, it was, the whole and every part of it, under the Hindn Law of 'stridhan' and in view of the exceptional Political circumstances which related to its creation, her personal property or "Stridhan" properly so-called, which she was fully competent to devise anyway she liked. It is scarcely necessary to point out that none of the property which the Rathorji possessed, was derived from the present Jhalawar Darbar. Entirely all the costly jewellery, and large sums of money were the gift of the Maharaj Rana Zalim Singh before his deposition, and the Promissory Notes, etc., which she got under the Award of Sir Elliot Colvin, were the property left by her deposed husband at the time of his death in Benares. The remainder of the property consisting of jewels and other articles of gold and silver, etc., were either gifts from relations, or they represent purchases made from the savings of Jagir or other income which, even during her husband's life was free from marital control. (See P. 1189, § 2769, Dr. Gour's Hindu Code, referred to infra in this Memo. Page 36). In short, all the property was derived directly or indirectly from her husband; and the Kishangarh stand-point is, that the whole of that property was such as she was legally entitled to will away. This will be made abundantly clear in the course of the discussion and examination of the merits of the grounds of Jhalawar claim which are treated in the sequel.

7. Points at Issue.

The main questions at issue, may be safely reduced to the following :—

- (1) Did the Ex-Maharaj Rana leave the sum of 4 lacs of Rupees *in charge* of the Ex-Maharani Rathorji, and if so, are the present Jhalawar Darbar entitled to take that sum?
- (2) Is the present Maharaj Rana of Jhalawar entitled to inherit the movable property including the Promissory Notes which came

into the possession of the Ex-Maharani under the Award of Sir Elliot Colvin?

- (3) Was the jewellery left by the Ex-Maharani such Jhalawar State jewels, as were liable by custom to be returned to the State Toshakhana? or was it all of such a nature as would fall under the category of "Saudayik Stridhan", being the deceased Lady's absolute property which she could dispose of by Will or otherwise?
- (4) Are the Jhalawar Darbar entitled to appropriate the unspent savings from the income of the Jagir villages, which belonged to the Ex.-Maharani until her death in December, 1918?

The answers to these issues will be found in the discussion of the value of Jhalawar Darbar's grounds of claim, which comes next in the order of treatment in this Note.

8. Examination and Discussion of the Jhalawar Darbar's Grounds of Claim.

The discussion and examination of the merits of Jhalawar Darbar's grounds of claim may now be undertaken seriatim, reference being made to the Jhalawar Memorandum enclosed with their letter to the Political Agent, Kotah, No. 270, dated the 28th February, 1919 (*Vide Annexure No. 4, Pages XVI—XXIV*).

Examination
of ground of
claim (1).

The first ground of claim in the words of the Jhalawar Darbar is that "on the deposition of the Ex.-Maharaj Rana and the partition of the original State of Jhalawar, His Highness the Maharaj Rana Bhawani Singhji succeeded to the reduced State and all the movable State property. He came into undisputed possession of all the family property of the Ruling House *viz.*, the personal property at Jhalrapatan which successively belonged to Maharaj Rana Madan Singhji, founder of the State, Maharaj Rana Pirthi Singhji, and to the Ex.-Maharaj Rana Zalimsingji himself, such as precious jewels of the Obari, costly robes of the Toshakhana, and be-jewelled arms of the Silekhana. The partition did not affect the movable

property of the Ruling House such as State jewellery etc."

Evidently, the object of this argument is to show that by the deposition of the Maharaj Rana Zalim Singh, and the dismemberment of the original State of Jhalawar, and the installation of the Maharaj Rana Bhawani Singh on the Gaddi of the new reduced State, no breach was caused in the continuity of the Jhalawar State, and that the present Chief automatically came into possession of the family property of the Ruling House. Facts, however, point all the other way.

The deposition of the Maharaj Rana Zalim Singh took place on the 2nd March, 1896. On the 1st of January, 1899, the actual transfer of the territory was effected, and from that date the new State of Jhalawar came into existence. Kunwar Bhawani Singh was selected by the Government of India to be the 1st chief of the New State, and he was installed as such on the gaddi, on 16th February, 1899. The family custom, which enjoined that only the four names of Zalim Singh, Madho Singh, Madan Singh and Prithi Singh should be assumed by the Rulers of the House, was broken for once, as it were, to emphasise the fact that the Ruling House of Jhalawar which was founded by Raj Rana Zalim Singh, the Machiavelli of Rajasthan, had become extinct. (See Imperial Gazetteer of Rajputana, page 399, Annexure 15, Pages, XL to XLI). To those acquainted with the custom prevailing in Rajput Ruling families, regarding the assumption of names on accession by rulers whose descent is otherwise than in the direct line, it needs no pointing out that the adoption of a new name in conformity with the traditions of the Ruling House, is more a rule than an exception. Maharaj Rana Bhawani Singh should have assumed the name of Madho Singh, if the principality of Jhalawar as established by the Treaty of 1838, had not for good passed away.

Effect of
Deposition.

The deposition had the effect of changing the status of the Ex.-Maharaj Rana from a Ruling Prince to a private individual, as Dr. Sir Tej Bahadur Sapru opines in the legal advice he has given to the Jhalawar Darbar, and as was held by Sir Elliot Colvin in his

Award (See Annexure No. 16, Page XLII) it had also the effect of making the Maharani Rathorji, the wife of a private individual. Whatever the husband and wife were allowed to retain with them from that date, ceased to belong to Jhalawar. After his deposition, the property held by the Ex.-chief acquired the incidents of self-acquired property and the properties of both husband and wife became a separate estate.

**Effect of
Dismemberment.**

The dismemberment of the old State of Jhalawar and its re-constitution into a new Chiefship in February 1899, after an interregnum of nearly three years, was tantamount to starting a new State on its career, whose first Chief could only claim as much of the State and its Treasury or Toshakhana as they existed at the date on which the British Government granted him the Sanad of accession and in the condition they were handed over to him on the termination of the Agency regime. In the preamble to the Sanad the words used are "and granted in that condition to a member of the said Raj Rana Zalim Singh's family." (See Aitchison's Treaties and Engagements and Sanads-Edition 4th-Vol. III Pages 366, 402 and 403 : Annexure No. 17, Page XLVI).

**Effect on Pro-
perty left by the
Ex-Maharani.**

The property in dispute in the present case is not the family property of the Ruling House, but, if it be permissible to say so, it is the family property of the deposed house, or rather it is the separate or exclusive property which a private individual was possessed of after ceasing to be a member of the joint family. To be more accurate, the property left by the Maharani Rathorji is a separate female estate, and unlike the personal property of the previous Rulers of Jhalawar, even supposing them for a moment to be the predecessors of Maharaj Rana Bhawani Singh, and ignoring the fact that by the deposition of the Ex.-Maharaj Rana Zalim Singh the line of descent came to a dead stop. Inference, therefore, is clear that the re-constitution of Jhalawar into a new state does affect the character of the movable property belonging to the Ex.-Maharani Rathorji, and it likewise affects its succession. By stating that the present Maharaj Rana 'succeeded' to the reduced State, the Jhalawar Darbar only obscure the fact of the present Chief's selection by the Government of India to rule a newly

formed State; and by substituting the word 'partition' for reconstitution, it is perhaps, conceiving a false hope based on the analogy of a great administrative change, and its annulment which took place in British India 15 years ago. His Highness Maharaj Rana Bhawani Singh must show a better title to succeed to the property of the Ex.-Maharani, than merely being the Ruling Chief of the 'reduced Jhalawar State'. If the latter title was enough, His Highness would have inherited, in preference to the Rathorji, the property of the Ex.-Maharaj Rana which was awarded to her by Sir Elliot Colvin, just in the same way that he came into undisputed possession of the personal property of Maharaj Rana Prithi Singh and of Maharaj Rana Madan Singh, the Founder of the State. The personal property of the Maharaj Rana Zalim Singh, which was, on his deposition and departure to Benares, left behind at Jhalawar, came into the possession of Raj Rana Bhawani Singh, not on the warrant of any law or custom, but as the natural consequence of the deprivation of Zalim Singh's Ruling powers and the nomination of Bhawani Singh to the New State during the banishment and lifetime of the former. It is therefore, ridiculous to include Ex.-Maharaj Rana Zalim Singh's case among those of his predecessors, if predecessors they could be called also of Bhawani Singh.

These considerations make it clear that Maharaj Rana Bhawani Singh's right of succession, both to the old Jhalawar Gaddi and to the property left at Benares by the Ex.-Chief as well as to the property willed away by the Ex.-Maharani, has been not only affected, but annulled by the supreme act of the British Government, *viz.*, the disintegration of the old Jhalawar State, and the deposition of the Maharaj Rana Zalim Singh.

The second ground of claim is that the present Chief of Jhalawar came into undisputed possession of all the jewels and personal property that had been left by Guheliji, Jaisalmeriji and Gulbaghji, on their deaths, which occurred after the Maharaj Rana's deposition and the reconstitution of the new State, and that the latter (Ex.-Maharaj Rana) or the Ex.-Maharani Rathorji raised no objection whatever as regards the movables of the Guheliji, who was a co-wife occupying the same position as Rathorji.

Ground of Claim
No. 2.

Jaisalmeriji.

Khawas Gulbaghji was only a mistress, and her case cannot be cited as a precedent to determine the succession to the property left by an Ex-Maharani. The case of Maji Jaisalmeriji, who was a widow of Maharaj Rana Madan Singh and was paternal grandmother of the Ex-Chief, is different. But the difficulty as regards her personal property was solved by arranging the adoption by her of the present Ruling Chief. The validity of the present adoption apart, it is generally permissible to a Hindu widow to take in adoption a son who may succeed to her own personal property, whether her interest in her husband's property does or does not extend beyond her maintenance. Whether the adoption of the present Maharaj Rana by Maji Jaisalmeriji, who could only be his Pad-Dadiji i.e., great-grand-mother, if her husband was really his third predecessor, was effected with the express object of inheriting her property, only the present Jhalawar Darbar can say; but the legal effect of it was certainly to entitle the Maharaj Rana to get all the property left by her at her death.

Guheliji.

The case of the Ex-Maharani Guheliji who died in August 1900, is more to the point. She was the wife of the Ex-Maharaj Rana Zalimsingh, and the co-wife of the deceased Ex-Maharani Rathorji, and her death took place when both these were living. It is remarked by the Jhalawar Darbar that 'even her husband' the Ex-Maharaj Rana who was then alive, nor did her co-wife, the deceased Maji Rathorji, put forward any claim. If the Ex-Maharaj Rana with whom destiny had played the cruellest trick, and who after his deposition was hardly, if ever, in a settled state of mind, did not claim the property of the deceased Guheliji, it is not a matter to be wondered at. He could never have entertained the idea of contesting his claim in Jhalawar, which was a forbidden place to him, and he would have never liked crossing swords of the law with the present Chief whom he hated as his bitterest foe. One, who did not use his political allowance to keep himself in comfort, was the last person who could be expected to wrangle with his enemy in respect of the property of his wife, who had not the boldness to tear herself away from his enemy's enforced protection. But to say that the co-wife Maji Rathorji did not timely lift up her finger is to utter a falsehood for which there is

no excuse. The facts are that the Rathorji did take up the complaint to the then Political Agent, Colonel Berkeley, who replied to her in his Kharita dated the 3rd December 1900, and promised to enquire and do what was needful, at the same time asking to be furnished with a detailed list of Guheliji's property (see Annexure No. 18, Page XLVII). That the present Maharaj Rana did not peaceably succeed to the property is shown by the two telegrams dated the 13th September, and the 10th November, 1900, which the Kamdar of the Maharani Rathorji addressed to the then Dewan Kishangarh in this connexion. (see Annexures Nos. 19 and 20, Pages XLVIII-XLIX). From the first of these telegrams, it is clear that the Maharani Rathorji always believed her connection with the State to be completely severed, and was firmly of opinion that the only person entitled to take the property of Guheliji was her husband, the Ex-Maharaj Rana Zalimsingh. The second telegram complains of the Maharaj Rana Bhawani Singh and his then Dewan, trespassing the Zenani Deorhi, and forcibly taking possession of the Guheliji's property by breaking open locks and pulling down the walls of her apartments. The above is another illustration of the Jhalawar Darbar's method of distorting evidence to suit their case.

The other consideration is that in the property left by the Guheliji and the Jaisalmeriji, it is impossible to believe that there were not many jewels and other movables, which were 'Stridhan' properly so called, over which a Hindu female has absolute right of disposal. Because Jaisalmeriji's property passed to the adopted son, and because Guheliji's property, as she died intestate, was seized possession of by the present Maharaj Rana, is it to be supposed that the right did not at all exist in them, because it was never exercised ?

The circumstances relating to the properties of the Guheliji and Jaisalmeriji, it will thus be observed, are different. Their instances do not cover this case of the Ex-Maharani Rathorji. This Lady has left a Will regarding her property, while the Guheliji did not; and the present Chief's adoption by the Jaisalmeriji puts her case out of Court altogether

Ground of
Claim No. 3.

The third ground of Jhalawar claim which now comes up for examination is, that the present Maharaj Rana was adopted by the widow of Maharaj Rana Madan Singh, founder of the original State, and was otherwise, the nearest agnate entitled to inherit the Ex-Maharani's personal property and the property which she held from her husband, and could not dispose of by Will or otherwise.

Effect of dis-
memberment on
present Jhala-
war.

It has already been shown above that by the Government of India's action in creating a new State of Jhalawar, and by their selection of Maharaj Rana Bhawani Singh to be its first ruler, the continuity of the Ruling House of which Maharaj Rana Madan Singh, grand-son of the celebrated Regent, Raj Rana Zalimsingh, was the founder, was completely broken. Jhalawar, which was now reconstituted as a Chiefship, ceased to be a Treaty State. The Raj Rana Bhawani Singh was chosen as Ruler not because he was the rightful successor of the Maharaj Rana Zalimsingh, but because, as stated in the preamble to the Sanad, it was considered politically expedient to provide for the descendants of the family to which the first Raj Rana Zalimsingh belonged, and for those Sardars and others whose allegiance was considered undesirable to transfer to Kotah (*vide* Imperial Gazetteer of Rajputana, Edition 1908, Pages 388-390; Annexure No. 15, Page XL, and Aitchison's Treaties, Pages 366 and 402. Annexures 6 and 7 Pages XXVI and XLVI).

It is pertinent that while the other Jhala Jagirdars e.g. Kola and Fatehpur, on coming into the new State were given in it, equivalent or more Jagir in lieu of the Jagirs they were compelled to give up in Kotah, the Ex-Maharani's villages to the last, remained the same, unaffected by the formation of the new Chiefship, and irrespective of the proportion according to which the old Jhalawar territory was broken up (see Chiefs and Leading Families in Rajputana, Edition 2nd, Page 74 : Annexure No. 21, Page L). As it actually came to pass, the Ex-Maharani's one village Lakharia which happened to be part of Kotah, was allowed to remain in Kotah ; and similarly, her other five villages which came into the new Jhalawar remained untouched as before. Until Lakharia lapsed to Kotah which was only possible on the Rathorji's death, it served to

remind both the Darbars of Kotah and new Jhalawar, that the old order had not fully passed away, and that there was the last member of Maharaj Rana Madan-singh's House still in existence, as a distinct political unit, side by side with the reconstituted Jhalawar and the new Ruling family established by the British Government. The keeping intact of the jagir of the Ex-Maharani was as much part of the dismemberment of the original Jhalawar, as the formation of the new Chiefship under the old name.

Again, the Government of India had, it appears, reasons enough, both political and legal, for not sanctioning the adoption of Bhawani Singh by the Maharani Rathorji. In Baroda, which offers a parallel, the late Maharajah Malhar Rao Gaekwar was deposed in 1875, and the Maharani Jamnabai, the widow of his predecessor on the Gaddi, in whom vested the right of adoption was, by the Government of India, accorded sanction to adopt the present Maharajah Sayaji Rao, who was then a minor. The continuity of the Ruling family of Baroda thus remaining intact, the present Maharajah of Baroda has not only succeeded to the rulership of the State, but has likewise, got all the property left by Maharani Jamnabai, who died long after, in 1898. These reasons are, therefore, cogent and convincing to prove that His Highness the Maharaj Rana Bhawani Singh cannot automatically succeed to the property left by the Ex-Maharani Rathorji, according to the *customs of Rajputana*, as is stated in the Jhalawar letter to the Political Agent. Kotah, dated the 27th December, 1918 (*vide* Annexure No. 12 Page XXXVII). In the present case, all family connexion of Maharani Rathorji with the new Ruling House was snapped on the formation of the new Chiefship, and in whatever loose state it apparently existed up to the time the Rathorji continued to live under the family roof at Jhalawar, her membership of the family came to an end in a pronounced manner, by her electing to remain from 1906, once for all, separate from Jhalawar. The customs of Rajputana, therefore, which ordinarily apply between a childless widow lady belonging to a Ruling House who dies intestate, and the successor of her husband, cannot be extended to apply to an Ex-Maharani in respect of the property which she

Effect of dismemberment on
Ex-Maharani's relationship

acquired from her deposed husband after his deposition, or which was gifted to her by him both as husband and Ruler of the State while yet he was in the enjoyment of full Ruling powers.

In these circumstances, it is contended that the succession to the property left by the Ex-Maharani Rathorji can only be determined either on legal grounds or on political grounds. The latter grounds, it will be shown hereafter, had a great deal to do in altering and transforming the nature of the property held by the deceased lady; because, as has been already pointed out, this property came into existence much in the same way as the Rulership of Maharaj Rana Bhawani Singh over the new State of Jhalawar.

9. Legal Aspect of the Case.

The legal aspect of the present case, trenches upon the three important topics of Hindu Law viz :—(a) Adoption, (b) Inheritance, and (c) Stridhan or Female Estate. The Jhalawar Darbar's stand-point is that the 'State jewels' not being according to custom the Ex-Maharani's personal property, could not be disposed of by her, and so also was the property received by her from her husband under Sir Elliot Colvin's Award,—which Property will be hereafter, for brevity's sake, called 'Benares Property,'—because as a Hindu widow, she had only limited rights in it, which ceased at her death. They do not deny, but on the contrary admit by implication, that the property which is left by elimination *i.e.*, what they call 'personal property', could have been disposed of by Will, or otherwise. The Kishangarh stand-point, on the other hand, as has been clearly stated above is, that the whole property, 'State jewels' 'Promissory Notes' and all, was the Ex-Maharani's personal property over which she had absolute right of disposal. The first legal issue, therefore, which needs decision is, whether the whole or a portion of it, and in the latter case, which portion, was the lady's personal property, over which she had absolute control? This kind of property is called under the Hindu Law "Stridhan proper", a clear idea of which has to be formed to be able to state with certainty if the different kinds of property comprised in the Jhalawar claim fall in that

Legal aspect of
the case.

category, and possess the incidents of 'Stridhan'. It will then be time to examine the validity of the adoption of Maharaj Rana Bhawanisingh, and his reversionary right as the nearest kinsman to succeed to the 'Benares property,' according to the Law of Inheritance.

Every student of Hindu Law knows that that Law is a personal law ; and the personal law to which a Hindu is subject is the law which prevails in the place of his domicile. There are accordingly, different schools of Hindu Law such as the Benares school, the Bengal school, the Mithila school etc. As the claimants in the present suit, as well as the deceased lady whose property is claimed, are all Rajputs whose domicile is in the Indian States of Rajputana, it must be ascertained first, which school of Law is applicable to Rajputana, in accordance with which the legal points arising in the present case will have to be decided. In a note at page 1 of Brandreth's Treatise on the Law of Adoption in Rajputana (printed at Calcutta by the Foreign Department Press in 1871) Colonel J. C. Brooke, the then Agent to the Governor-General says :— "Different parts of India have different written laws on the custom of adoption prevailing therein, whilst in Rajputana there is no written law. The Maharana of Oodeypore," (whose opinion on all questions arising under Hindu Law and usage among the Hindu aristocratic families of Rajputana is generally treated with great respect) "in reply to queries on the subject, said that Rajputs are guided in case of adoption by the Dharamshastras and ancient custom." The Maharana who was expressly consulted on the subject of Adoption, which is one of the many topics of Hindu Law, would presumably have given, if consulted, the same opinion on the other topics of that law, e.g. Inheritance, Succession, Partition and Stridhan etc. At page 10, Mr. Brandreth says that in his enquiries as to the works on Hindu law usually consulted on the subject of adoption, he succeeded in finding at Ajmer, copies of the Code of Manu, the Code of Yagnavalkya with its commentary, Vijnaneshawar's Mitakshara, and the Vyavaharmayukha. The metrical codes of Manu and Yajnavalkya are the principal Dharamshastras of which the Maharana of Udaipur speaks, and

School of Hindu
Law applicable
to Rajputana.

the other works are only commentaries of these Codes. The authority of Mitakshara is supreme in the city and provinces of Benares. (see Mayne's Hindu Law and Usage, Chapter II, Sources of Hindu Law; Edition 9th, Pages 18 to 26). With regard to the Vyavaharmayukha, Mr. Brandreth at page 6 of his Treatise on the Law of Adoption, says that it is "a work which is certainly the most consonant with the customs observed in Rajputana, of any that I have seen".

It therefore, appears that the works which Mr. Brandreth was able to lay hold of in Ajmer as being works usually consulted in matters of Hindu Law, are those, which as a general rule, are relied upon in the Benares School, which latter with the Vyavaharmayukha, would seem to govern the legal relations of Hindus living in Rajputana. It will not be out of place here to mention that in Bhopal Singh's widow's case, known as the Beawar Bhoom case, the Commissioner of Ajmer was of opinion that Rajputana was governed by the Benares School authorities, and that the Chief Commissioner of Ajmer-Merwara accepted in 1887, the Commissioner's opinion based on a discussion of those authorities. Incidentally, it may also be remarked that the claimants to the estate which the Revenue authorities wanted to resume in the Bhoom Case, were Rathore Rajputs.

Taking it for granted therefore, that the Benares School, with the Vyavaharmayukh is applicable to Rajputana ; besides the works mentioned above, the Viramitrodaya of Mitra Misra also occupies an important place. Mr. Mayne calls it rather a Benares than a Bombay authority (Mayne on Hindu Law, Page 29, Edition 9th) ; and in Grady's Hindu Law, Chapter LXVI, it is called an authority secondary only to Mitakshara in the Benares School. The above reasoning leads to the conclusion that the questions arising in the present case must be determined in accordance with the law of the Benares School as laid down in the Mitakshara and the Vyavaharmayukha, the Virmitrodaya, and the Dharma Shastras namely the Codes of Manu and Yajnavalkya, except in so far as it is varied by ancient custom, the existence of which has to be proved by positive evidence. Hindu Law as interpreted by the Courts in British India, and

for that matter the Privy Council, when it is not in consonance with the spirit of the leading authorities of the Benares School and the Vyavaharmayukha quoted above, and which is at variance with the meaning given by those authorities, it goes without saying, cannot be allowed to prevail. The decisions of British Courts are not binding on the Hindu Ruling Houses of Rajputana, as is clear from the existing practice, based as it is on local law and usage.

At pages 362 and 363 of Holland's Jurisprudence, 8th Edition, it is stated that the circumstances which affect the solution of the question as to the applicable *Lex*, are Concentricity, Time, Race, and Place. Regarding Concentricity, "the general rule is that the nearer and narrower law is to be applied rather than the more remote and wider," The interpretation given by the British India Courts and the Privy Council, is admittedly wider and the more remote, and consequently, the strict law of the Dharam Shastras as applicable to Rajputana should be applied in the present case, rather than that the rulings of the High Courts and the Privy Council be accepted as infallible precedents. It is well to remember all this, more specially in connexion with the subject of 'Stridhan'.

Almost at the beginning of this note, it has been pointed out that the Ex-Maharani Rathorji has left a Will, by which she has bequeathed all her property to the Maharajah of Kishangarh. As all this property is what is called in law 'a Woman's estate', the question arises, whether it was in its essence such, as could have been validly disposed of, by Will or otherwise. The initial question, "Of what property can a married woman make a Will?" is answered in Mayne's Hindu Law and Usage, 9th Edition, Page 570 § 407, where it is said "that a married woman may make a Will of her "Stridhan" or any other property which is absolutely at her own disposal." The main question therefore, which requires solution in the present case, may be stated in other words, "Was all the property left by the Ex-Maharani her 'Stridhan' or such other property which was absolutely at her own disposal.?"

Woman's estate.

The Jhalawar Darbar have, it will be remembered, treated the Ex-Maharani's estate as composed of (1) State jewels, (2) Personal property, and (3) Property which the Ex-Maharani held from her husband. (See Para 1, Annexure No. 2, Page XI). From which it is clear that they do not include 'State jewels' in personal property. This view which is maintained in section 2 of their Memorandum is contradicted in article 1 of section 1 of the same Memorandum, wherein in speaking of the personal property of the Ex-Maharaj Rana Zalim Singh and his predecessors, the Jhalawar Darbar have included 'Precious Jewels of the Obari etc.' The inference is obvious. In the case of the Ex-Maharani, the exclusion of State Jewels from her personal property is wilfully made, in order to save them from being classed as Stridhan, and being thereby rendered divisible under the Hindu Law. It is alleged that according to custom, they could not be disposed of, but that is another matter. It will, now be proved that first, there are no 'State jewels' properly so called, in the property left by the Ex-Maharani, and secondly, if there be such jewels, they are not protected by custom against being reckoned 'Stridhan'. It follows therefore, that if both the properties Nos 1 and 2 are proved under the Hindu Law to be Stridhan or peculium, they would connote absolute ownership and be in their nature such, as could be disposed of by Will. The same cannot be said of the 'Benares Property' which is classed No. 3. With respect to it, the Jhalawar Darbar say that the Ex-Maharani "had not the right to dispose of the property held from her husband, by Will or otherwise," and in support of this they quote from Mayne "that a married woman cannot devise property inherited from males, whether movable or immovable, since her interest in it ceases at her death." It may at once be admitted that this is the view held by the courts in British India. but on behalf of the Kishangarh Darbar it is contended that this view is opposed to the letter and spirit of Hindu Law, as applicable to Rajputana and as interpreted by the text writers regarded here as authorities. It will be further proved that there are grounds, both legal and political, which would bring the 'Benares Property' under the category of "any other property

which is absolutely at her own disposal", of which as Mayne says, a married woman may make a Will. But before taking up this controversial matter regarding the 'Benares Property', it will clarify the issues, if it is proved once for all that the whole of the property including the 'State jewels' unquestionably falls in the category of 'Stridhan' over which the Ex-Maharani had absolute control.

Whatever the Jhalawar Darbar may understand by the term 'State jewels', they leave one in no doubt regarding the property which they have actually claimed under this head. The full list of the State jewels that were given from time to time to the Ex-Maharani Maji Rathorji Saheba 'for her use only,' is filed with the Jhalawar Memorandum, dated the 28th February, 1919 (vide Annexure No. 4, Page No. XVI). It contains all the articles which it is alleged belong to the Jhalawar Treasury, and are by custom restorable to the State. The articles comprised in the 'State jewels' are divided into 3 classes (1) 40 gold ornaments set with gems, (2) 46 gold ornaments and, (3) silver ornaments without names numbering 81. The joke about the silver ornaments is transparent, for everyone knows that no lady belonging to the Ruling family ever wears any silver ornaments on the body. The list would provoke further comment. It is not known from what sources it is compiled, nor does it afford any clue to the occasion or conditions on which each article was given. All the ornaments, it is said, were given from time to time to the Rathorji, but the list is silent regarding the dates of their issue from the Toshakhana. The truth is that not one of the articles given in the list was issued from the Toshakhana of the reconstituted Jhalawar State. A woman's property as Mayne remarks (see Page 967 §65) commences at her bridal in the shape of gifts from her bridegroom and her own family, and in the present case, the period during which the said jewels came into the possession of the Ex-Maharani began from the date of her marriage and ended with the deposition of her husband, minus perhaps, the interval of seven years during which the Ex-Maharaj Rana was temporarily deprived of ruling powers. To be precise, the Maharaj Rana Zalim singh was invested

The State jewels
are Stridhan
according to
Hindu Law.

with powers in February 1884, his marriage with the Rathorji was celebrated on the 29th January 1887. On 24th September 1887, he was deprived of his powers which were restored to him fully once more on 30th June 1894. His final deposition took place on 2nd March 1896. The Jhalawar Darbar admit that the ornaments were given to the Maharani, and as the giver could be no other than the Ruler of the State when he exercised full powers, it is clear that all the ornaments in the list were received by the Maharani from the Ex-Maharaj-Rana during the two periods from 29th January 1887 to 24th September, 1887, and again from 30th June 1894 to 2nd March 1896.

It will hardly be seriously contended, that the Maharaj Rana Zalim Singh, while invested with unrestricted powers of Government, was not competent to exercise to the full, his prerogative with respect to the State Treasury and Toshakhana. No Ruling Prince is restricted in the choice of the reward or presents, he will bestow upon any person whom he might like to favour or honour. He can make and unmake 'State jewels,' alter, buy or sell them, and give them to whomsoever he likes, out of love, regard, or affection, provided he is not so indiscreet as to give rise to a scandal or involve his State in financial ruin. Much less will his action be ever called into question in respect of wedding or other presents he makes, as in the present case, to his legally wedded favourite wife, never mind how costly they are. Besides in this particular instance, the Maharaj Rana Zalim Singh was conscious that in wedding the daughter of the illustrious Rathor House of Kishangarh, he was raising the status of the comparatively very modern State of Jhalawar. He had therefore, to satisfy himself that the wedding and other presents he made to his wife, were up to the mark, and in-keeping with the dignity and rank of the princely family from which she came. (see Annexure No. 8, pages XXX and XXXI). The Ex-Maharaj Rana has said in one place that in his own marriage in 1887, he spent nearly 4½ lacs of Rupees, and he has recognised that it was due to the position of Her Highness the Maharani, as the daughter of the Maharajah of Kishangarh, that he was

obliged to spend a similar sum when she was *enceinte*. The total value of the State jewels contained in the Jhalawar list does not exceed Rs. 1,60,000/- and if jewellery worth this amount, in the way of nuptial and other presents, was given to his wife by the Ruler of a State the annual revenue of which had risen to 20 lacs in his time, it need cause no surprise. In ordinary circumstances, no husband would execute a deed of gift with regard to the property he may have given to his wife out of affection and of his free will and accord. But the Ex-Maharaj Rana had early enough, before his deposition, seen on the horizon of Jhalawar an ominous 'cloud no bigger than a man's hand' threatening to overwhelm him and his family with ruin. He feared that any day his enemies might give trouble to his wife Rathorji, in respect of the jewellery and other property which he had given her while he was possessed of full governing powers. Copy of the document solemnly confirming the gift of the monies and jewellery, he made to the Rathorji, together with its English translation will be found as Annexure No. 22, Pages LI—LI. The written deed is dated the 10th January 1896, and recites the nature of the property which is the subject of gift from Maharaj Rana Zalim Singh to the Maharani Rathorji. It includes articles of jewellery set with gems, and ornaments made of pearls and gold, and cash etc., gifted from the State as presents by Zalim Singh, in the exercise of full powers and of his own free will and pleasure. It is a futile argument to suggest that the deed would be vitiated because the gifts are from the State, as if the presents made in such cases are derived from other sources than the State Treasury and Toshakhana. The era of heroic kingship with a modicum of divinity has not yet passed away in an Indian State, and the institution of Privy purse and Public Treasury will take several years yet to be distinct integral parts of its constitution. The property covered by the deed is indeed not specified, but must certainly be taken to include all the articles mentioned in the Jhalawar list of 'State jewels,' as these latter could only be referred to the period before Maharaj Rana Zalim Singh's deposition took place. Justice Markby in his Elements of Law at Page 128, Edition 4th, § 244, says

"when we infer the existence of intention from an act or acts not done for the purpose of manifesting it, we always look at the surrounding circumstances to see what light they throw upon the action." Besides, the maxim *verba intentioni debent inservire* (the words must yield to the intention) has its application here. There can be no doubt that the surrounding circumstances being taken into account, the Ex-Maharaj Rana expressly intended that all the monies and all the jewellery which his wife Rathorji possessed, should be understood, as no other than the gifts made by him which, as he has declared in another place, could not be taken back from her according to the Hindu Shastras (See Annexure No. 8, Page XXXIII Jhalawar State Papers.) These considerations prove that the 'State Jewels' claimed by the Jhalawar Darbar are no other than the jewels given by the Ex-Maharaj Rana to the Maharani Rathorji under the deed of gift *inter vivos*, dated the 10th January 1896. In Hindu Law, these gifts are technically called 'Saudayik' or "Saudayika Stridhan." "Provided that the gift is made by the husband, or by a relation either of the woman or of her husband, it seems to be immaterial whether it is made before marriage, at marriage or after marriage; it is equally her 'Saudayik'" (see Mayne's Hindu Law, Edition 9, Page 972, §660). In characterizing the incidents of this species of property, the same learned author in § 662, Page 973, says "Saudayika of all sorts whether movable or immovable which has been given by relations other than the woman's own husband, and Saudayika of a movable character which has been given by him, are absolutely at a woman's own disposal. She may spend, sell, devise, or give it away at her own pleasure." Dr. Gour in his Hindu Code goes a bit further, and says at page 1189, second Edition, §2769, "property granted or gifted to a woman by her husband or his or her own relations is called "Saudayika," over which she possesses unfettered power of disposal by gift or devise even during coverture." After this searching examination there cannot be left any doubt on the mind that the 'State jewels' claimed by the Jhalawar Darbar are under Hindu Law the Ex-Maharani Rathorji's "Stridhan" or personal property over which she had absolute control.

In section 2 of their Memorandum, (see Annexure No. 4, Page XVIII) the Jhalawar Darbar state "that according to the customs of Rajputana, the state jewels were not the Ex-Maharani Saheba's personal property, and hence could not be disposed of by her and ought to be restored to the State Obari. (They must be regarded as crown jewels of a Royal family)." A glance at the list of the 'State jewels' claimed by the Jhalawar Darbar will at once show that their conception of a 'State jewel' is no more nor less than that of an article of jewellery or ornament of personal wear, which originally belonged to the State Toshakhana. But it is ridiculous to expect these articles to be regarded as crown jewels of a Royal family. To dream of the Regalia and crown jewels in the Wakefield Tower in London hardly serves any useful purpose. A large number of them are of the value below Rs. 5,000 in the Jhalawar list; one is only worth Rs. 50, and then there are other silver ornaments of inconsiderable value. It is common knowledge, that articles of the State Toshakhana are very often given on loan to members of the Chief's family, both male and female, and to Sardars etc, for being made use of and displayed on State occasions or at important functions public and private; and there can be no doubt that however long they may remain in the custody of the recipients, the claim of the Toshakhana to recover them never ceases. But if the loan is cancelled or is converted into an unconditional gift under orders of the Ruler of the State, the absolute ownership of the article passes to the donee. Much more is this so, in the case of gifts or presents made by a Ruler to his wife. "Ornaments given by a man to his wife, or constantly worn by her with his permission though belonging originally to him, become her Stridhan (see Tagore Law Lectures 1878, Pages 317 to 320)." "Ornaments given unreservedly to a wife are her Stridhan, whether constantly worn by her or not." (see Commentaries on Hindu Law by Bhattacharya, Edition 2nd, Page 570). The custom of Rajput Ruling families invariably is that wives and daughters-in-law receive from the State Toshakhana, gifts and wedding presents at their marriage to which no condition is attached. The articles of jewellery given conditionally are always

The 'Stridhan' character of 'State jewels' not abrogated by any Custom.

Custom of Rajputana.

entered as 'Havalgi' in the books of the Toshakhana while those that are gifted are shown as "Enayat" or "Bukhshish" or "Inam." Over these latter, the State has no control. They are never regarded as held in trust. They may be bestowed by the holders upon sons and daughters or other relations out of affection; they may even be given as Bukhshish to favourites. They are often made offerings to temples, idols and Gurus. Who but a globe-trotter that has walked through the streets of Udaipur, Jaipur, Jodhpur, Kotah, Bundi or Alwar has not come across a temple, which owes its existence to the munificence of a former Maji Saheba, who has given ornaments to its idols and provided endowment for the ever-lasting worship conducted therein. The costly jewellery of the princely widow generally lies at the back of this vision of spiritual splendour. Even the five and twenty grand duchesses mentioned by Sir Ali Baba, have many a time followed the example of the five and twenty queens.

It will thus appear that the customs of Rajputana have nothing to do with temporary loans and conditional gifts of jewellery, nor do they operate against the conversion into 'Stridhan' of Toshakhana articles unconditionally gifted by the Ruler of the State to his princely spouse, whether at marriage or afterwards.

Custom of the
Jhalawar State

Dr. Sapru's
opinion.

Apparently the Jhalawar Darbar know that it does not strengthen their case by appealing to the customs of Rajputana. So their Dewan in his letter No. 494, dated the 2nd November, 1907, to their Political Agent (Annexure No. 5, Page XXV) states "that the Maharani Rathorji has in her possession, a number of State jewels, which in accordance with the custom of the State were given to her for her use only." Indeed, Dr Sir Tej Bahadur Sapru also relies upon the custom of the Jhalawar State, and not the customs of Rajputana, in support of the claim regarding 'State jewels.' This is what he says. "As regards the jewels left by the widow, I understand, the case of the Maharajah of Jhalawar is that they are State jewels, and were given to the late Maharani for her personal use during her life, and that according to the *custom of the State*, they must revert to the State, upon her death." It is clear that the custom of

the Jhalawar State in this respect must be regarded as peculiar to itself and different from the other States of Rajputana. Putting it in words, the custom means that in the Jhalawar Chief's family, when a lady is imported by marriage, it is understood that the presents and gifts made to her during her life, are for her use only, and must revert to the State upon her death. She may not alter them, exchange them, sell or give them during her life time. Sir Tej Bahadur Sapru blesses the custom as being apparently a reasonable one. "But," says he, "It is a question of fact, and if it can be proved, the claim of Jhalawar should prevail". The "but" and "if" are oracular. A counsel who in giving his opinion in a dispute, falls back upon a local custom which his client must prove, reduces his own responsibility considerably. Sir Tej Bahadur Sapru knows better than any body else that the jewels left by a widow which she has been in possession of, all her life, are essentially her Stridhan or peculium, which can never go to her husband's heirs, if there be any. But the learned Doctor's point is that if the Maharaj-Rana Bhawani Singh cannot get them, his Toshakhana at any rate may, if possible, be given the chance of calling them back. Hence the reliance on this novel custom of the State.

The custom in question evidently, is not a territorial custom or the *lex loci* binding all persons within the limits of Rajputana. But if it at all exists in Jhalawar, it seems to be a sort of family usage or conventional arrangement, which could only be made into a binding custom, if it possessed antiquity and continuance. The Jhalawar State was first formed in 1838, and in comparison to the other Rajputana States must be regarded as very modern; as the Ex-Maharaj Rana Zalim Singh was only its third and last Ruler. "A family custom cannot be binding where the estate, to which it is alleged to be attached, is so modern as to preclude the possibility of any immemorial usage." Besides "in order that a custom may have the force of law, it is necessary that it should be ancient, reasonable, certain, invariable, and continuous and not immoral" (See Bhattacharya's Commentaries on Hindu Law, 2nd Edition, 1893, Page 51). It is not difficult to prove that the custom set up by Jhalawar is in no

Family Custom
or Usage.

wise reasonable. Such State jewels, as are given to each married lady, must be given from time to time extending over many years, and as they range from a trifle to a costly article, there is no knowing how many numberless articles may be on loan from the Toshakhana, the condition being attached that each article must return to it, on the death of the recipient. Another thing. The sons of a Ruler of Jhalawar would, like all other States, be presumably married at State expense, and their wives would naturally according to custom receive presents and gifts from the State Toshakhana. Letting alone the eldest son, who will eventually succeed to the Gaddi, it is also the custom that each other son will get a jagir, be separated from the Chief's family, and become a fresh stock of descent. Under these circumstances, in the case of any of the sons' wives dying after their husbands' separation from the Chief's family, will the ornaments left by the deceased go to the State Obari, or remain with the family of their husbands? Under the novel custom of Jhalawar, they should revert to the State. So the custom of the State would operate unequally on the State jewels of the wives and the State jewels of the daughters-in-law, which is immoral. The custom therefore, is neither reasonable, nor invariable, nor certain, and is, on the other hand, subversive of the principles of Hindu Law which recognises the absolute dominion of a married woman over her separate and peculiar property (except lands given to her by her husband), of which she is at liberty to make any disposition at pleasure (see Macnaghten's Principles of Hindu Law compiled by P. C. Sen, Page 33).

State Custom
Improbable

At the same time, there is strong circumstantial evidence against the existence of any such custom in the Jhalawar State. From the translated extract from Waqua-i-Rajputana in Urdu, Vol. III, Page 356, Edition 1879 (see Annexure No. 23, Page LIII), it seems clear that Maharaj Rana Prithvi Singh, the second Ruler of Jhalawar, was conscious of the unwillingness of the older Rajputana Princes to at once recognise him as a *pucca* Ruling Chief. It seems almost incredible that he, who was considered more or less a *parvenu*, and who was making genuine efforts to win them over, and to secure admission into their

hierarchy, would introduce into his State a custom contrary to that in the other States of Rajputana, and thereby reduce the chances of desirable and superior matrimonial alliances. Surely, the introduction and observance of this novel custom would not have helped to raise the status, prestige, and credit of Jhalawar among the Rajputana States. And where was the time for this innovation? for, if it did not exist during Maharaj Rana Pirthi Singh's régime, the custom could not have suddenly come into vogue in the time of Maharaj Rana Zalim Singh who was his next and last successor.

Besides, it should not be forgotten that the Ex-Maharani Rathorji when she died, was living quite separate from Maharaj Rana Bhawani Singh's family, and the custom of the State which might be applicable to the ladies dying as members of the family under the family roof, can have no application in the present case.

Lastly allowing that such custom did exist and was reasonable, the question is, can it limit the power of a Chief of Jhalawar to give to his wife unconditionally any valuable ornaments belonging to the State Obari; or, can it prevent by its operation, the unconditional gift made to the married woman, from being converted into her Stridhan; or, can it extinguish the plenary powers of disposal she possesses over her personal property? Assuredly no.

In dismissing the Jhalawar Darbar's claim to the property left by the late Ex-Maharaj Rana at Benares, and in giving the same to the Ex-Maharani, Sir Elliot Colvin, during the course of his Award, makes the observation that "Had the property in question been 'State jewels' or other property which passed in succession from one Chief to another, the Jhalawar Darbar might have made good their claim." Much capital has been made by the Jhalawar Darbar out of this *Obiter Dictum*. But it seems to have been forgotten that the case to which the remark would apply is vastly different from the present one. Here, there is no continuous succession of Chief that has taken place; and the property in dispute is not the personal property of a predecessor Chief who has died on the same

Ex.-Maharani
not member
of Family.

Effect of such
custom.

Sir Elliot Col-
vin's Obiter
Dictum.

Gaddi; but, being the Stridhan belonging to the wife of a deposed Chief of an extinct State is in no way returnable to the Toshakhana of a new State formed out of the ashes of the former. It was, besides, immaterial for Sir Elliot Colvin's decision to define the term 'State jewels'; nor was it necessary for him to examine whether the continuity of succession, as ordinarily understood, was preserved or broken in the case of Jhalawar; also, the determination of the custom prevalent in Rajputana generally, and in Jhalawar particularly, regarding the 'State jewels' in the possession of a sonless widowed Ex-Maharani was foreign to his enquiry.

To sum up, all the so-called 'State jewels' in the Jhalawar list, whether identified or not, were under the deed of gift executed by the Maharaj Rana Zalim Singh, the Rāthorji's personal property or 'Stridhan,' over which she held absolute control, and the law allows it, and no custom territorial or local is opposed to the exercise of her testamentary privilege.

*Incidents of
Ex-Maharani's
'Personal
Property.'* (2)

The question regarding the character and incidents of the 'State jewels' having been disposed of, what is called 'Personal Property' by the Jhalawar Darbar, may now be subjected to the same process of examination. It will be remembered that the Jhalawar Darbar in their covering letter to their Memorandum No. 270, dated the 28th February, 1919, (See Annexure No. 4, Page XVI) include under Personal Property all jewellery excepting the 'State jewels,' and all cash property including the Promissory Notes. This means, as stated before on page 2 of this note that this class of property (2) would consist of:—

- 2 (a) Jewellery other than State Jewels
- 2 (b) i—sum of 4 lacs.
- 2 (b) ii—the Promissory Notes.
- 2 (b) iii—Savings from Jagir income and interest on the Government securities.

In the body of the memorandum, however, the Jhalawar Darbar have treated the Promissory Notes etc.. or what is herein called 'Benares Property' as a class by itself, alleging it to be an estate obtained in a different way and held under a different tenure from

the rest of the personal property. Accordingly, in this note also, the 'Benares property' will be treated separately afterwards. Meanwhile, it will be ascertained whether the remaining three-fold personal property *viz.* 2(a) Jewellery other than the State jewels, 2(b) i, The sum of four lacs and 2(b) iii, Savings from Jagir income and the interest on the Government Securities, do or do not possess the incidents of 'Stridhan'?

With regard to the personal property as detailed above, it has been already pointed out, that the Jhalawar Darbar recognise that the Rathorji was competent to dispose of it by Will, if she pleased, for in their letter to their Political Agent, No. 1395, dated the 27th December 1918, they have clearly said that now as "she (Rathorji) dies intestate, His Highness (Maharaj-Rana Bhawani Singh) is, according to the customs of Rajputana, entitled to inherit her property as the only heir thereto" (See Para 3 of Annexure No. 12, Page XXXVII). Similarly, a glance at the wordings of sections 2, 3 and 4 of Jhalawar memorandum, will show that while in the case of State jewels, the Rathorji's right to dispose of them is denied because they are not personal property, and in the case of the 'Benares Property', because her interest in it ceases at her death; no such disability is mentioned in respect of what they have called "Personal Property". On the other hand, from their argument quoted above, they admit that the customs of Rajputana affect the inheritance or heirship to the property left by the deceased, in as much as, that it does not descend to her own heirs even being her stridhan—, but those customs in no way destroy the property's inherent character of being willed away, or in other words, they do not extinguish the incident of its being 'Stridhan,' absolutely at the holder's disposal. And this is true as is proved by long established custom in the Ruling families of Rajputana. Ordinarily, a married woman's peculium, according to Hindu Law, would devolve upon her own heirs rather than the heirs of her husband, in the event of intestacy (See Section 289, Page 1178 of Dr. Gour's Hindu Code, 2nd Edition). The custom in Ruling families, however, is that under similar circumstances, all the property left by her goes to the State (not the Ruler), irrespective of

whether she dies childless or otherwise, so long as she dies as a member of the family. To say, therefore, "that His Highness being the nearest agnate to her late husband, succeeds according to Hindu Law to the personal property left by the deceased" is only confusing the issue. It is transferring the language which can only apply to property which has devolved upon a woman by inheritance from a male owner, the distinctive feature of which is that at her death it reverts to the heirs of the last male owner (See Section 604 and Section 605, Pages 885 and 886; also Section 498, Page 724 of Mayne's Hindu Law, 9th Edition). Once the property is admitted to be 'Stridhan proper', it possesses the element of being willed away, for no property is 'Stridhan' so called, if it does not possess its essential incident *viz.*, the unfettered power of disposal (See Section 2793, Page 1198 of Dr. Gour's Hindu Code, 2nd Edition). If therefore, it is proved that this 2nd division of property is 'Stridhan', the rule of agnation has no application, and it would be fruitless to enquire either into the propinquity of Maharaj-Rana Bhawani Singh or into the validity of his adoption.

Jewellery other
than the State
jewels.

Comparison of
jewellery lists.

It will now be proved, that all the jewellery, included in the personal property, as designated by the Jhalawar Darbar, is the Rathorji's 'Stridhan'. Regarding the contents of the property, the only guide is the list filed by the Kishangarh Darbar. It contains not only ornaments set with gems, but gold and silver ornaments, and silver utensils, etc. The gold ornaments set with gems number 111, valued approximately at Rs. 1 28,637 against Jhalawar Darbar's 40, valued approximately at Rs. 1,01,300. The gold ornaments are 84, worth Rs. 26,100, against Jhalawar Darbar's 46, valued at Rs. 25,800. The silver ornaments are 53 valued at Rs. 1,875, against Jhalawar Darbar's valued at Rs. 1,650. The silver utensils in the Kishangarh list are 47, worth Rs. 5,076, and miscellaneous articles in the Kishangarh list are valued at Rs. 1,500. (See Annexures No. 1 and 29 Pages II-IX and LX-LXI).

On an inspection of the ornaments in the Kishangarh list, it appears that there are some which are made after the Kathiawar fashion *e.g.* the gold

anklets etc. These apparently are presents from the members of the Wadhwan family, from which the Ex-Maharaj-Rana Zalim Singh came in adoption to Jhalawar. Several others e.g. Timnias, bracelets, nose-rings etc., came apparently as presents at the time of marriage, and some of them may be those which were presented by the Kishangarh family, and these latter roughly were worth not less than Rs. 25,000. A few of them pretty costly, not included in the Jhalawar list, were apparently the husband's gifts. There may be some which the lady may have got made for herself from the savings of her Jagir income. Some of the ornaments specially of silver, and of comparatively small value, were made for the use of female attendants. The silver utensils etc. may be partly wedding presents, and partly made from her Jagir income.

It will thus be seen that the above-mentioned ornaments and articles were firstly, either made from the savings of the lady's maintenance allowance, or secondly, they were received by her as bridal presents from her kindred, that is her own relations or the relations of her husband, or lastly, they were gifts from her husband either before or at the marriage or afterwards, until the time of his deposition. No restrictions apply to property which has passed to a female by deed or other arrangement, which gives her express power to appropriate the profits. The Jagir villages granted to the Rathorji under the marriage settlement, and again granted and continued to her, after the Ex-Maharaj-Rana's deposition, by Government, were without doubt property to which this description applies, and Mayne in his Hindu Law at Page 916, § 630, says that "the savings of such property and every thing which is purchased out of such savings belong absolutely to herself. They may be disposed of by herself at her pleasure, and at her death, they pass to her representatives, and not to the hiers of the last male." This disposes of the question of the ornaments and articles purchased from the savings of the Jagir property.

Regarding Wedding gifts or presents, Dr. Gour in his Hindu Code at Page 1193, § 2799 says "that a

wedding present given to a woman, in the shape of jewels, clothes and the like, at the time of her marriage, are her separate property, intended to be enjoyed by herself, and there is no presumption that they form part of the family property." Regarding the gifts to the wife made by the husband or any of his or her relations, Dr. Gour in his Hindu Code § 2768, Page 1188, 2nd Edition, says "that it is now settled that such grants or gifts, as confer upon her an absolute power of disposal, are her Stridhan, (See also § 2769, Page 1189, Hindu Code, and Mayne's Hindu Law, 9th Edition, Para 2, § 658, Page 969). It is thus clear that all the ornaments and articles which were not purchased from her income, were received by the Rathorji from her kindred, and they could not be subject to control according to the text cited by Mayne in his Hindu Law § 663, Page 975; and if there were any articles, all such control was removed by the husband's death, after which the lady became unrestrained owner of them (Mayne's Hindu Law, 9th Edition, Page 976).

The conclusion therefore, is irresistible, that all the jewellery and all the silver and gold articles contained in the Kishangarh list, were the Ex-Maharani Rathorji's 'Stridhan', over which she had absolute control.

The sum of
Rs. four lacs.

Next to be considered is cash property 2 (b) *i.e.*, the sum of 4 lacs of Rupees alleged to have been left in charge of the Ex-Maharani by the late Ex-Chief. The story of this sum of four lacs has already been told before in all its details. The Jhalawar State papers (See Annexure No. 8, Pages XXX-XXXIII), extracts from which have been quoted before, leave no doubt that under special circumstances this large amount was made a gift of by the Ex-Chief to his wife, and it is untrue to say that it was entrusted to her. According to Hindu Law, it is clear, as has been abundantly proved above, that a husband's gift to his wife becomes her personal property or 'Stridhan' which is absolutely at her disposal. If in time of extreme distress, he draws upon it, he is under a moral obligation to restore it, but ordinarily a husband can neither control his wife in her dealings with it, nor use it himself. (See Mayne's Hindu Law 9th Edition,

§ 662, Page 973). Who can say that during his stay in Benares, the Ex-Chief in great difficulties and distress may have, now and again, sought the help of his wife, and drawn upon this sum in instalments at various times? And there is nothing to rebut the supposition that she as a loving wife may have yielded to his demand, for both were equally interested in prosecuting their case and securing their restoration to the Gaddi of Jhalawar. But what is known to everybody is that she spent large sums of money in various pilgrimages, and for religious and charitable purposes, including the construction and endowment of a temple at Jatipura, near Goverdhan, which alone, they say, must have cost 2 to 3 laes of Rupees. The Kishangarh Darbar cannot vouch regarding the manner in which this amount of 4 laes was spent by the Ruthorji, nor indeed are they legally answerable. The point is merely this, that the aforesaid sum was at the Ex-Maharani's absolute disposal, and she was perfectly competent to do what she pleased with it. The list of charities and spiritual offerings etc. given as Annexure 9, Page XXXIV, might probably afford an explanation.

The 'Benares property' being dealt with separately, cash property 2 (b) iii viz., the savings from the income derived from the Jagir, may be considered as coming next in the order of treatment. The question of interest on the Promissory Notes such as has accrued since the death of the Ex-Maharani will be taken up conveniently along with the 'Benares Property,' as it would naturally partake of the character of the Fund from which it is derived. Regarding the savings, however, it has already been pointed out that they form a woman's 'Stridhan,' and belong absolutely to herself, when property like a Jagir is settled upon her by deed or other arrangement which gives her express power to appropriate the profits (see § 630 and 660 of Mayne's Hindu Law, 9th Edition, Pages 916 and 972 already quoted above). The above considerations establish to a certainty, that all the three-fold 'Personal Property' dealt with above, possesses the incidents of Stridhan, and as such, was absolutely at the disposal of the Ex-Maharani Ruthorji, which she was fully competent to devise by Will, as she did in the present case.

Jagir income
and interest on
Promissory
Notes.

Doctor Sir Tej
Bahadur Sapru
silent, regarding
Personal Prop-
erty.

It is impossible to believe that the Jhalawar Darbar, when they sought the legal advice of Dr. Sir Tej Bahadur Sapru, would have omitted all mention of what they call "the Personal Property." Yet it is significant that the learned Doctor is studiously silent on this point in the legal opinion which he has tendered to the Jhalawar Darbar. He confines his attention to the accumulations from the savings of the allowance which the Ex-Maharaj Rana was in receipt of, from the Darbars of Jhalawar and Kotah. This is the only estate left by the Ex-Maharani Rathorji, except the "State jewels," which Dr. Sapru regards as claimable under Hindu Law by the Maharaj-Rana Bhawani Singh. 'The State jewels', Sir Tej Bahadur thinks, can be validly claimed by the present Maharaj-Rana on the ground of the custom of the Jhalawar State, only if its existence could be positively proved by irrebuttable evidence, and he naturally leaves the responsibility of proving the custom on the Jhalawar Darbar themselves. This point has been exhaustively dealt with above. Evidently therefore, it is reasonable to deduce that in Dr. Sir Tej Bahadur's opinion, the personal property so-called (excepting the 'Benares property') cannot and ought not to be in dispute, and the Jhalawar Maharaj-Rana's claim to it cannot be supported by any Custom, Law or Usage. It is also tantamount to an admission that the Ex-Maharani's Personal Property was her 'Stridhan', pure and simple, on which she possessed unrestricted powers of disposal; and this is exactly the standpoint of Kishangarh Darbar regarding the Personal Property of the Rathorji.

10. Incidents of Benares Property.

Problem stated
regarding
'Benaras
Property.'

It having been conclusively proved so far, that all the 'State Jewels' and all the Personal Property as classified in the Jhalawar Memorandum, come within the category of 'Stridhan' proper, and possess the incidents of absolute ownership; the only division of property which awaits similar examination is the property held by the Ex-Maharani from her husband under the Award of Sir Elliot Colvin. This, which has been called 'Benares property,' is the second

division of cash property comprised in the Jhalawar Darbar's claim, namely Government Promissory Notes of Rs. 1,53,700 (see Pages 3 and 11, supra). As will be remembered, it is with respect to this property that the Jhalawar Darbar have denied to the Rathorji the right of disposal by Will or otherwise, relying upon the quotation from Mayne, "That a married woman cannot devise property inherited from males, whether movable or immovable, since her interest in it ceases at her death." Dr. Sir Tej Bahadur Sapru has called this estate, in the eye of Law, as the estate of the Ex-Maharaj-Rana Zalim Singh, whose widow held it only for her life, as a Hindu widow with limited rights, who could not dispose of it by Will or otherwise. It has been pointed out above that this is the view held by the Courts in British India, and so far as immovable property received from the husband is concerned, the widow's limited rights are admitted also by the Hindu Codes of Manu and Yajnavalkya and the text-writers of the Mitakshara, Virmitrodaya ; and Vyavhar Mayukh, whose authority, as has been already shown, is regarded supreme in Rajputana, and is particularly applicable in the present case. The 'Benares property,' however, consisting of Promissory Notes etc, is movable property, and let alone the political grounds which must affect its incidents and character, as will be dealt with in the sequel, the whole of it, in the opinion of the Codes and text-writers cited above, partakes of the nature of 'Stridhan,' and comes within the category of property over which the widow has absolute right of disposal.

Manu at Chapter IX, verses 184 and 185 says that "sons inherit the property of their father, but that on failure of sons, the father, and on failure of father, brothers take the inheritance." Manu's commentator Kullak Bhatta, however, says in his commentary that in the absence of sons, the widow, the daughter, and the daughter's son take the inheritance one after the other. And this rule he repeats in his commentary on verse 187, that the nearest 'Sapinda' takes the wealth (inheritance) etc., where relying on Yajnavalkya and several other Smriti writers, he holds that the widow is the nearest of the deceased husband's 'Sapindas,' and that as such, she inherits the

The Code of
Manu.

movable and immovable property of her husband dying separate and sonless. Dealing with a woman's Stridhan or peculium, he enumerates six kinds (Manu Chapter IX, Verse 194), and neither he nor his commentator says that the property inherited by a woman is an additional kind of 'Stridhan.' In interpreting "six-fold," occurring in Manu's text, the Mitakshara, Virmitrodaya and Vyavhar Mayukh, all agree in saying that the term is not intended as a restriction of a greater number, but as a denial of the less:

The Codes of
Yajnavalkya and
Mitakshara etc.

Vijnaneshwar, the author of Mitakshara, holds more liberal views than other text-writers regarding the position of women and the nature of the property they take as heirs. Yajnavalkya in enumerating the heirs, male and female, to a separate house-holder dying sonless, places the widow at the top, and lays down without any limitation that she takes the property of her deceased husband. In his general discussion as to what constitutes ownership, Vijnaneshwar says that "owner is by inheritance, purchase, partition, seizure or finding." (See Mitakshara, Ch. 1, Placita 8) If this be the case, there is certainly no reason, as Vijnaneshwar puts it, why the widow should not be held to be the owner of the property inherited from her husband. Yajnavalkya enumerates the kinds of a woman's 'Stridhan,' or peculium at Stanza 148 of Chapter II, and Vijnaneshwar comments that Yajnavalkya contemplated to include what is acquired by "inheritance, purchase, partition, seizure or finding." He therefore, holds that whatever a woman inherits from a male or female is her absolute property.

Dr. Gour in his Hindu Code has said that the Law of Stridhan is the most difficult, and the least settled branch of Hindu Law. Indeed, the old Sanscrit writers on Law have also observed that this is one topic on which the text writers and commentators fight tooth and nail. There is no wonder therefore, if a great controversy raged in British Indian Courts as to the correctness of the interpretation placed by Vijnaneshwar on the text of Vajnavalkya. Without entering further into the reasons

which led the British Courts, whose decisions, by the bye, cannot be made binding on the Indian States in Rajputana, to incline to the opinion they have expressed as to the nature of the estate inherited by a female, it may be conceded that in so far as immovable property is concerned the weight of the opinion of many old and comparatively modern text-writers in limiting her interest therein for life only, was against the widow. Even Vijnaneshwar does not appear to dispute this fact.

The Judges of the Bombay High Court in the case of *Vijiarangam et al versus Laksman*, 8 Bombay H. C. R. 244-263 (see Annexure No. 26 Page No. LVI) have observed that Vijnaneshwar includes all property inherited by a woman in her 'Stridhan', and that a widow takes the whole estate of her deceased husband separated in interest from his brethren. He makes no distinction between the inheritance of a woman from her husband, and her inheritance from any other person. To the judges it seemed a reasonable inference from the authorities they examined, that as to immovable property at any rate, the woman's ownership is subject to control. The case is cited with a view to show what the law as laid down in the Mitakshra is, as regards the capacity of a widow in respect of immovable property inherited by her from her husband. Professor H. H. Wilson, who was a great Sanscrit scholar and who appears to have minutely studied the various Hindu Law books, says at page 24 of Volume V of his works :—"The spirit and the text of the original law, in our estimation, recognise the widow's absolute right over property inherited from her husband in default of male issue. The regulation most conformable to reason, to analogy, and the spirit of the Hindu Codes would be to give the widow absolute power over personal property, and restrict her from the alienation of her estate, except with the concurrence of her husband's heirs". And this is so in ordinary practice. In cases where a widow has left movable property inherited by her from her husband undisposed of, the reversionary heirs of her husband may take it along with immovable property, if any, but during her life-time, she has

Bombay High
Court Judg-
ment.

absolute power to dispose of it, and, as far as is known, there has seldom been any civil action restraining her from alienating it.

Vyavahar Mayukh and Virmitrodaya.

The text quoted by Vijnaneshwar in his Vyavahar Mayukh, Chapter IV, Section VIII, and also in the Virmitrodaya goes to show that a widow takes her husband's movables absolutely. And Vijnaneshwar also seems to lay down the same rule by analogy, for he quotes a text to prove that a father has absolute control over movables ; at any rate over self-acquired movables (Chapter I, Section 1, Placita 21 and 27.)

According to the law in force in Western India also, it has been decided that a widow during her lifetime, has absolute power over movables inherited by her from her husband, and may dispose of such property by Will. (See Page 521 Bhattacharya's Commentaries on Hindu Law, Edition II). It may be noted here that the Vyavahar Mayukh is a work of great authority in Western India, regarding which Mr. Brandreth has remarked in his treatise that it is "a work which is certainly the most consonant with the customs observed in Rajputana of any that I have seen".

For these reasons, the deceased Ex-Maharani Rathorji was absolute owner of the movables left by her husband, and in these circumstances, the Benares property namely the Promissory Notes worth Rs. 1,53,700 can only be styled as "*any other property* which is absolutely at her own disposal." (See Mayne § 407, Page 570, Chapter XI, 9th Edition). It is of such property that Mr. Mayne speaks alongside of 'Stridhan'; of which a married woman may make a Will, and it is submitted that the 'Benares Property' possessing that character, was validly included by the Ex-Maharani in the bequest made by her to her nephew.

Circumstantial evidence regarding Benares property.

The circumstances under which the Benares property came into the possession of the Rathorji, if carefully examined, go to show, that though the property may not be technically 'Stridhan,' in its narrower sense, it is as much loose phraseology, to call it as, 'being got by inheritance.' In the case in which

Sir Elliot Colvin made his Award, the Ex.-Maharani Rathorji stated in her arguments in support of her claim, that she lived with her husband at Benares longer than any of his so-called relations, whose sight he hated, and that towards the close of his life, it was at his special desire that she tended and nursed him. There are many letters among the correspondence left by the Rathorji to show that the Ex.-Maharaj-Rana addressed her several confidential messages of endearment requesting her to go and stay with him, and look after his affairs at Benares. On one occasion the Ex.-Maharani's youngest brother Maharaj Raghunath Singh, visited the Ex.-Maharaj-Rana at Benares, and the latter extracted a promise from him that the Rathorji should be sent over to live with him without delay, as may be inferred from a telegram of 24th August, 1912, received by Maharaj Raghunath Singh (See Annexure No. 24, Page LIV). A translated extract from one such letter is given as Annexure No. 25, Page No. LV, which shows that the Ex.-Maharaj-Rana was serious and in earnest to get his wife by him, and that, he often mentioned to his confidential servants that on her joining him, the deposits in the Bank standing in his name *viz.* the Promissory Notes, would all be made over to her. During his last illness, these invitations became very pressing, and yielding to them, and in response to the call of duty, the Rathorji went to stay with her husband at Benares in his last days. In these circumstances, it can scarcely be believed, that when reduced to his last straits and in extreme distress, with the picture of his enemies ever present to his mind's eye, the Ex.-Maharaj-Rana could for a moment have thought of leaving his accumulations for the benefit of his unsympathetic kinsmen of Jhalawar. On the contrary, reason and probability, point to a death-bed desire that the only person whom he loved so dearly before and after his deposition, and who shared with him in his joys and sorrows with equanimity and submissiveness, and who so tenderly and affectionately nursed him, and on whose 'fond breast his parting soul' relied in his dying hour, should take all that he possessed. That such desire may have found vent in a nuncupative will, need not be dismissed as mere speculation.

Regard being also had to the permanent strained relations between the Ex.-Chief and the present Chief of Jhalawar, and to the fact that the former had vehemently denied the latter's descent from a common ancestor, and therefore his right to succeed to the Jhalawar Gaddi, it is more than likely that the Ex.-Maharaj-Rana devised by word of mouth all his 'Benares Property' to the Rathorji. If the Ex.-Maharaj-Rana had any doubts as to his Benares property being absolutely at the disposal of his wife after his death, or, if he had ever dreamed that in order to insure his settled wish he had to fulfil a legal technicality of making a Will or a deed of gift, it is more than certain, that he would have never hesitated to leave a last testament in writing as he had left a deed of gift on a previous occasion with respect to all the property which he had given to the Maharani before his deposition. And well may he have had fears and doubts then, but when dying at Benares, the chances of his wife being molested after his death, must have appeared in respect of his estate at Benares far remote and humanly unthinkable. If, therefore, it may be pre-supposed, as circumstantial evidence is entirely in its favour, that the 'Benares Property' was altogether at the disposal of the Rathorji, there can be no doubt that she was perfectly competent to make a Will in respect of it. A grant or gift to the wife made by the husband conferring upon her absolute power of disposal is her 'Stridhan.' (See § 2768, Page 1188, Dr. Gour's Hindu Code, II Edition). Also, property received by a female as a legacy from a relative becomes her 'Stridhan,' as property given unconditionally by a relative (See § 3, Page 570, Bhattacharyya's Commentary on Hindu Law, II Edition).

11. Political Nature of the Case.

Judging from Political considerations which it is submitted, should be the sole test in determining the nature of the whole movable property left by the Rathorji, it will appear that in particular, the property which came to her under the Award of Sir Elliot Colvin, if it be not allowed to be 'Stridhan' in its narrower sense, as interpreted by British-Indian

Courts, was certainly in its essence such 'other property' over which she had unfettered control. Assuming, therefore, that the view of the Dharmashastras applicable to Rajputana which holds the 'Benares property' to be 'Stridhan,' is disallowed, and also assuming, that what the Ex-Maharaj Rana possessed at Benares, he did not give to his surviving widow by a nuncupative Will; in both which cases the Rathorji could not be treated otherwise than as an absolute owner of the property, it would follow according to Hindu Law, that the Benares property being the property of a male descending to a female, would pass at the latter's death to the heirs of the last male holder and not to her heirs (See article 498, page 724, Mayne's Hindu Law, Edition 9), and amongst rightful heirs to him, who is the next-of-kin possessing the reversionary right. The question in these circumstances to answer is whether the political conditions governing the case do not make it absolutely clear that Maharaj Rana Bhawani Singh is not in any sense the heir, near or remote, of the last male holder namely the Ex-Maharaj Rana Zalim Singh. The examination of the Jhalawar Darbar's genealogical table, which will follow later, will conclusively prove that the pretensions of Maharaj Rana Bhawani Singh to be the surviving next-of-kin of the Ex-Maharaj Rana are entirely false and groundless. Politically considered also, the heirship of Bhawani Singh does not rest on any secure foundation. To illustrate this view-point, a brief retrospect of historical events seems to be necessary.

It is recorded that in the first decade of the 18th Century Bhav Singh, a scion of Halvad, a petty chiefship in Kathiawar, left his ancestral home to try his fortune at Delhi. He proceeded first to Idar, and next to Ajmer, where he married the daughter of the Sisodia Thakur of Savar by whom he had a son Madhosingh and a daughter. In the time of Maharao Bhimsingh (1706-20), Madho Singh came to Kotah, won the good graces of the Chief, who married his heir-apparent Arjun Singh to Madho Singh's sister, granted him a Jagir and gave him the post of Foujdar, which position implied the control of the army, the forts, and the palaces (See Page 388, Rajputana

Historical
retrospect.

Gazetteer, Edition 1908). Madho Singh had four sons, Madan Singh, Arjun Singh, Abhey Singh and Man Singh. The eldest son Madan Singh succeeded Madho Singh in the office of Foujdar, and the post became hereditary in the family. The remaining three sons of Madho Singh went back to Kathiawar, and in those days when the sword was the king of the pen, and laws had not silenced spear and gun, these soldiers of fortune carved out for themselves honourable livelihoods in that province. Arjun Singh, with the help of his brother Abhey Singh, assassinated in 1707 the cousin of his own father, and virtually became the Chief of Wadhwan, while Abhey Singh and Man Singh became respectively the chieftains of Chuda and Jhamar (See Pages 695-96 of Bombay Presidency Gazetteer Vol. VIII Kathiawar, Edition 1884). Madan Singh was succeeded by Himmatsingh, who in his turn was followed in 1785 by his famous nephew Zalim Singh, whom he had adopted. Three years later, Zalim Singh secured victory for the Kotah Arms over Jaipur troops, but later fell into disfavour with his master as a result of a love-intrigue, and was dismissed from his office. But after a spell of good service at Udaipur, where he obtained the title of Rajrana, he retraced his foot-steps to Kotah, and obtained not only pardon, but was reinstated in his old office. When the Maharao was on his death-bed, he sent for Zalim Singh and committed his son Umaid Singh and his country to his care. From this time (1771), Zalim Singh was the virtual Ruler of Kotah. When Umaid Singh attained majority, he recognised the extra-ordinary ability with which Zalim Singh exercised his power and preferred to leave all authority in the Regent's hands. During the days of widespread strife and turmoil, Kotah was saved from absolute ruin by the talents of the minister, Rajrana Zalim Singh; and in the course of 50 years of his administration he raised Kotah to the position of one of the most flourishing and powerful States in Rajputana. He was one of the first Rajput Chiefs to co-operate with the British Government for the suppression of the Pindaris in 1817. Through him, a Treaty was concluded with the Kotah Chieftain in December 1817, and when the British Government guaranteed by that Treaty the integrity of Kotah, a supplementary

article was added which guaranteed Zalim Singh and his heirs the authority and privilege he then possessed. The tributary claims on Shahbad, the personal estate of Zalim Singh, were remitted, and his fidelity and active zeal in the Pindari war were further rewarded by a grant of four districts ceded by Holkar, which the minister insisted should be annexed to the Kotah State.

The inconvenience from the arrangements made under the Treaty of 1817, by which one person was recognised as the titular Chief, and another was guaranteed the actual rulership, was not felt during Maharao Umaid Singh's life-time, upon whose death his successor Kishore Singh naturally desired to recover authority and attempted to secure the administration by force. By the intervention of the British power however, resulting in the defeat of Kishore Singh, he had to recognise the regular and perpetual succession to the administration of Zalim Singh and his heirs. Zalim Singh died in 1824, and was succeeded by his son Madho Singh, who, though notoriously unfit for office, received undisputed charge of the administration under the Treaty. In 1828, Maharao Kishore Singh was succeeded by his nephew Ramsingh, and in 1834 the disputes reached a crisis between the hereditary Chief Ramsingh and his hereditary minister Madansingh, the son and successor of Madhosingh. It was therefore resolved, with the consent of the Chief of Kotah to dismember the State, and to create the new principality of Jhalawar—for that was the name chosen by its 1st Chief—as a separate provison for the descendants of Zalimsingh; and 17 parganas, yielding a revenue of 12 lacs of rupees, were made over to Madansingh under a new treaty concluded with Kotah in 1838. From that year dates the existence of Jhalawar as a separate State, and its 1st Chief Madansingh, grand-son of the great Kotah Administrator, Zalimsingh the first, was vested with the title of Maharaj-Rana, and was granted a salute of 15 guns, and placed on the same footing as the other Chiefs of Rajputana; but the succession was limited to the descendants of Zalimsingh. In 1845 Madan Singh died, and was succeeded by his son, Pirthisingh who during the Mutiny of 1857-58, rendered good service by conveying to places of safety

several Europeans who had taken refuge in his districts; though in revenge the Mutineers from Neemuch caused great damage to his State. Maharaj-Rana Pirthi Singh was guaranteed the privilege of adoption in 1862, and 11 years afterwards he solicited permission to adopt an heir to succeed him in the event of not having a son. To this, objection was taken by Kotah on the ground that by the Treaty of 1838 Jhalawar would revert to Kotah in the event of the extinction of Zalimsingh's line. By this Treaty, however, the severance of Jhalawar and its cession to Madan Singh, his heirs, and successors was un-conditional, and although the consent of Kotah was obtained to the cession, the conditions were between the British Government and Jhalawar. Kotah's objection was consequently dis-allowed and the Maharaj-Rana being placed on the same footing as the other Rajputana Chiefs, the requested permission was granted to Pirthi Singh, whose choice fell upon Bakht Singh, whose father was Thakur Kesri Singh, the second son of Thakur Raj Singh, the then Chief of Wadhwan in Kathiawar. Bakhtsingh's succession was recognised on the 1st of June, 1876, and he was installed as Maharaj Rana on the 24th June, 1876, when in accordance with the family custom he assumed the name of Zalim Singh. Zalimsingh, on attaining majority, was invested with governing powers, subject to certain restrictions, in 1884, but as he failed to administer the State in accordance with the principles laid down for his guidance, the Government of India were compelled to withdraw his powers in 1887, and to restore a minority administration. In 1892 Zalimsingh promised amendment, and was entrusted with partial power; but whatever reservation existed before, was withdrawn in 1894. His failure, however, again to govern the State properly, and his persistent disregard of the conditions imposed on him, resulted eventually in his dethronement on the 2nd March, 1896. He thereafter chose to live at Benares, where until his death on the 8th October, 1912, the Ex-Maharaj Rana Zalim Singh was in receipt of an allowance of Rs. 30,000 per year, contributed by the Darbars of Kotah and the newly created Jhalawar in the proportion of 2:1. In consequence of the deposition, and as there was no direct descendant of the Regent Zalim

Singh, his name-sake predecessor of renown, the Government of India taking into consideration the intention of the framers of the Treaty of 1838 with the first Chief Raj Rana Madan Singh, ordered on the 1st January, 1899, that 15 out of the 17 parganas alienated in 1838, in order to form the principality of Jhalawar, be restored to Kotah. In memory of the services rendered by the first Raj Rana Zalimsingh, and to provide for the family to which the said Raj Rana belonged, and also for some nobles and subjects whose transfer to Kotah was undesirable, a new State was created out of the remainder of the old State. Kunwar Bhawani Singh, son of Thakur Chhatarsal of Fatehpur, was selected by the Government of India, from among the descendants of the relatives of the Regent Zalim Singh, to be the Chief of the new State with the title of Raj Rana ; and on the 1st of January, 1899, the actual transfer of the territories being effected, the new State of Jhalawar came into existence from that date. (See Pages 362 and 366, Aitchison's Treaties, Sanads and Engagements Volume III, Edition IV). The Sardars and others whose allegiance was withdrawn from Kotah, and who became Chiefs of the New Jhalawar were assigned equivalent Jagir in the new Chief-ship, but the transfer of the territory did not affect the Jagir villages held by the Rathorji. They were continued intact in number, name, extent, and revenue, irrespective of the changed jurisdiction, and were virtually re-settled on her, (See Annexure No. 27 Page LVIII). From this Annexure it will be seen that of the 6 villages yielding an annual income of Rs. 24,736 one village named Lakharia, yielding an income of nearly Rs. 2,827 was, even after the transfer of territories, allowed to remain in Kotah, as before, the remaining 5 villages with an annual income of Rs. 21,909 formed part of the new Jhalawar State. The Revenue of the old Jhalawar State was Rs. 12,00,000 while that of the present Jhalawar chiefship is a little over Rs. 4,25,000 ; thus roughly speaking the territory transferred to Kotah yields twice the income of the present Jhalawar, and it is presumably on that account that the contributions of the two States, as has been observed before, towards the Ex-Maharaj Rana's allowance was in the same proportion. If, therefore,

the same principle had been followed in distributing the Jagir of the Rathorji between the territories of the two Darbars, or if equivalent Jagir in exchange for Lakharia had been assigned to her in Jhalawar, it would have been nothing inconsistent; but the fact that the Jagir was preserved in all its details, as before, emphasises, more than anything, that the Rathorji's political connection with the old Jhalawar Darbar was unbroken; and she, to the last day of her life, represented the old order that only ended when she passed away in December, 1918. With Maharaj Rana Bhawanisingh the case is quite different. He is the first link in a newly forged chain, whereas the Rathorji was the last link in the old chain. In speaking of the dismembered Jhalawar, of which Bhawani Singh was selected Chief in accordance with the Sanad of 1899, the phrase used in para 3, page 362, of Aitchison's Treaties, Vol. III, Edition 4th, is that it was a 'new State created out of the remainder of the old State.' The old Jhalawar State was a Treaty State granted to Rajrana Madan Singh as a separate principality formed out of the Kotah State in 1838; while the new State of Jhalawar is a Sanad State. Special emphasis needs to be laid on the word 'New', when applied to the present State of Jhalawar. The dismembered Kotah never came to be called a New State between the years 1838, and 1899, nor has it become a New State since the restoration in 1899, of its territories which were severed from it in 1838. As regards Jhalawar created in 1899, it was not only a case of a Stranger filling the founder's throne, but the founder's throne had undergone a radical change, and was transformed out of recognition; for, the old principality of Jhalawar, as the Sanad says, on the deposition of Maharaj Rana Zalim Singh came to be 'at the disposal of the Crown'. If the State had remained the same, and a new House was selected to rule over it, there would have been a continuity; and similarly, continuity would have been preserved if the Ruling family had remained the same and the State had undergone a change. But this is an instance of the 'breach of continuity', both ways, for a new State sprang up and a new House was selected to rule over it. The new Chiefship of Jhalawar, politically, as regards its status,

rights, and obligations is different from the old Jhalawar, and resembles it only in name. To sum up, the deposition of Maharajana Zalim Singh was followed 3 years afterwards by the dismemberment of Jhalawar, and the creation of a new Chiefship with the old name, Bhawani Singh being selected as its ruler by the Government of India.

The deposition of Zalim Singh together with the dismemberment of Jhalawar, and the consequent restoration to Kotah of its previously lost territory constituted a great Act of State, and it comprised the following minor Acts of the same nature which cannot be separated from it. They were :—(1) The Creation of a New State and the Selection of a new Ruler, (2) The continuance or re-settlement of the Jagir of the Rathorji keeping her connection intact with the old Jhalawar, and at the same time keeping her and her estate distinct from the new Jhalawar, (3) The Ex-Maharaj Rana's annual allowance, two thirds from Kotah and one-third from Jhalawar, keeping him a political unit distinct from the New Jhalawar Chiefship. It is necessary to enquire what these component Acts of the supreme power signified jointly and severally.

Deposition, a Supreme Act of State.

The first Act of State *viz.*, the creation of the New Jhalawar was prompted by the reasons summarised in the preamble to the Sanad of 1889. They were, that, according to the Treaty of 1838, the British Government had granted certain territories to Raj Rana Madan Singh, his heirs and successors being the descendants of Raj Rana Zalim Singh, according to the custom of succession obtaining in Rajwara, that the line of the said Raj Rana Zalim Singh had become extinct on the deposition of Maharaj Rana Zalim Singh, that the said territories were at the disposal of the Crown, that taking into consideration the intentions of the framers of the said Treaty, Her Majesty the Queen Empress of India assented that the portion of the said territories equal to the share thereof originally contributed by the Kotah State may be restored to it, and lastly that it was an act of clemency and the proof of the desire of the British Government to maintain the existing political system that the remainder of the said territories were

First Component Part.

placed under Native Rule. It is well known that an adopted son, in whose veins does not run the blood of the Founder of the House, but who is collaterally descended from a common ancestor becomes, for all purposes, a lineal descendant according to the custom of succession obtaining in Rajwara. This principle was allowed on a former occasion in the State, when Maharaj Rana Pirthi Singh adopted a collateral relation hailing from Wadhwan ; and the objection of Kotah was over-ruled on the ground that by the Treaty of 1838, the severance of Jhalawar, and its cession to Madan Singh, his heirs, and successors were unconditional, and although the consent of Kotah was obtained to the cession, the conditions were between the British Government and Jhalawar, that Kotah could have no voice in the question of the succession, and could not object to the action of the British Government in having placed the Maharaj Rana of Jhalawar on the same footing as the other Chiefs of Rajputana by the granting of the adoption Sanad of 1862.

is evident that the privilege of adoption was not granted in the name of a particular Ruler, but it was a concession to the State, to be exercised by its Ruler when needed, or in case of a vacancy occurring on the death of the Ruler dying sonless, to be permitted by British Government and to be exercised in the interest of the State, and it was certainly intended to operate against any future dismemberment.

If therefore, on the deposition of Maharaj Rana Zalim Singh, who was at that time sonless, it had been desired to preserve the integrity of Jhalawar and to prevent its dismemberment, the adoption of a collateral relation would have had to be permitted and resorted to, and this course would have been perfectly consistent with the custom of succession in Rajwara, and the adoptee would have been in due course, recognised as the successor of the Rajrana Zalim Singh, and a descendant of Maharaj Rana Madan Singh, the Founder of the House. The objection of Kotah could have been easily disallowed on the same old grounds, which were advanced when the adoption of Maharaj Rana Zalim Singh and his succession to the Jhalawar Gaddi were sanctioned by the Government of India. But the view taken of the situation by

Government in 1899 was different. They determined that the family of Zalim Singh had become extinct, and that the old State had run its course and its territory was at the disposal of the Crown, and that there was no one eligible to be the heir or successor of the Ex- Maharaj Rana who could be installed on the Gaddi of Jhalawar. Indeed, Sir William Lee Warner in his "Native States of India" Edition 1910, at Page 114, says that "after the lapse of more than half a century, the then Ruler of Jhalawar was deposed for misgoverning his State, and while a portion of his territories was, on his death (it should be deposition) *without heirs* restored to Kotah, the remnant was constituted a new State of Jhalawar on the 1st day of 1899, under the rule of Bhawani Singh". It is therefore, more than clear that Bhawani Singh was not regarded as an heir or eligible for succession to the deposed Chief. If he possessed any such qualification, it was extinguished by the Act of State which sanctioned the dismemberment of Jhalawar and the creation of the new Chiefship. Sir Elliot Colvin, in his Award, pointedly says "that the Raj Rana was not a very near relation of the Ex-Chief," much less therefore, could he be his next-of-kin. It is manifest that Rajrana Bhawani Singh was selected, not because he was heir, but in spite of his not being heir, and because the primary object in creating the new State was to show clemency and to give a proof of the desire of the British Government to stabilise the existing Political system, and to commemorate the services of the Regent Zalim Singh. Consequently, as the Ruler was desired to be a member of the said Raj Rana's family, the Government of India's choice fell on Bhawani Singh. Bhawani Singh was never adopted into the house of the Regent Zalim Singh, and it has to be remembered that his father Chhatarsal belonged, by birth, to the Sadri family of Mewar and that therefore, though he calls himself a Madhavat, has in him none of the blood of Madho Singh, the ancestor

the Ex-Maharaj Rana Zalim Singh (See Page 87 Chiefs and Leading families of Rajputana, Edition 1894). It is significant that instead of adopting a new name from amongst those enjoined by the custom of the Jhalawar family, he has preserved the name of his grand father's (Himmatsing's) natural father

belonging to the Sadri family. Neither does the adoption for religious purposes, even if valid, of Bhawani Singh by the Jaisalmerji, who was the wife of Maharaj Rana Madan Singh, make Maharaj Rana Bhawani Singh a member of the family to which Ex-Maharaj Rana Zalim Singh belonged, and thereby entitle him to become his heir; for Mayne says in his Hindu Law and Usage at page 7, Article 9, that according to the Mitakshra (which applies to Rajputana) consanguinity in the male line is the test of heirship, not religious merit. In Bengal, inheritance follows the duty of offering sacrifices, elsewhere the duty follows inheritance. In these circumstances, it is difficult to see how Bhawani Singh, who was not recognised as an heir and eligible successor to the Ex-Maharaj Rana at his deposition in 1896, could suddenly set himself up as his heir on the death of his widow the Ex-Maharani, 22 years afterwards. Surely the running of time could not cure his original disqualification.

The second component part *viz.*, the Rathorji's Jagir Estate has been already discussed at length at Pages 59 and 60 *Supra*, and need not be adverted to here.

Third Component Part.

The order of Government, therefore, creating the new Chiefship, imposed a permanent disqualification upon the Ex-Maharaj Rana in as much as he could not inherit the Gaddi of the old or new Jhalawar at any time of his life even if a vacancy occurred in the latter and even if he possessed the reversionary right. In the same way, by being elevated to the Chiefship Maharaj Rana Bhawani Singh could not inherit the property of the latter, even if he was the heir-at-law; because the two estates created by Government by the promulgation of an order of a political nature were distinct and must be kept apart and descend to the exclusion of the new Chief and the Ex-Chief. It is only a fresh act of Government that can remove the disqualification. To wit, when Maharaj Rana Bhawani Singh's natural father, the Jagirdar of Fatehpur, died heirless, it was not Bhawani Singh or his son who claimed the succession, but another eligible person had to be found to fill up the vacancy. If Maharaj Rana Bhawani Singh was allowed to take the property left by the Ex-Chief

which subsequently came into the possession of the Ex-Maharani, it would be tantamount to annulling the original order of Government, which created the distinct estates of the Ex-Maharaj Rana and his wife, and absolutely destroyed and put an end to the interest of reversionary heirs, even supposing that the new Chief was one of them. The principle has been enunciated in a Privy Council decision, Brijindra versus Janki cited at Page 1189 of Dr. Gour's Hindu Code, Second Edition. The facts of the case are different, but the principle laid down therein is applicable in as much as the deposition amounted to confiscation, and the subsequent creation of the Ex-Chief's and his wife's estates was a new creation. The property which has devolved on the Ex-Maharauji after the death of her husband is what came to the widow in consequence of the grant of the political pension made to the Ex-Maharaj Rana by Government, and must be regarded as her Stridhan over which she had full control. The 'Benares Property' can hardly be called self-acquired property, as it did not represent the gains of self exertion nor did it come to the Ex-Maharaj Rana as a partitioned share; and when it came into the hands of the Ex-Maharani there was nothing during her lifetime to prevent her from using it up in any way she liked. To say that she held it in trust for her husband's heirs like an ordinary Hindu widow is to utterly misunderstand her position in life and her newly created political status. The restrictions placed upon an ordinary Hindu widow's power over property are from a desire to keep the property, as far as possible, from being squandered away, that the female may keep her character unsullied, and from inexperience and want of wisdom she may not adopt a course which may bring both family and property to ruin. But the case is different when a lady belongs to a princely family, has been properly brought up and educated consistent with her rank and position, and is inspired by the traditions of the House to which she belongs and who is fit to become a Regent, if occasion arose. To talk of restrictions on her power of disposing of her personal movable property which she possessed absolutely during her lifetime would be to apply narrow and

illiberal ideas, only suited to a backward society, and less advanced civilization.

If the old Jhalawar had remained intact, and if its line of rulers had continued unbroken, and then, if the Ex-Maharani Rathorji had died a sonless widow, still a member of the Regent Zalim Singh's family, it is conceivable that whatever property might have been left by her, wherever she died, could have been validly claimed by the Old State and its Obari but that State and that Obari of origin and issue, are now '*N.n Est*'; and even to imagine, that because the old State was broken into two, the present property in dispute should therefore go in proportion to Kotah and the New Jhalawar, would be absurd, as it would only be, in a round about way, calling back the Old order of things which had for all time disappeared under the Supreme Act of Government. If therefore, the present Chief of Jhalawar cannot lay even proportionate claim to the Ex-Maharani's property, much less has he any valid ground to claim the whole property, which she has left and willed away in favour of her nephew, the Maharajah of Kishangarh.

To make the position clear, suppose, (1) that the Rathorji had died in her husband's lifetime, or, suppose (2) that she had left a son born after the deposition (for there was a daughter born before), what would have then happened? There could be no doubt that in the first case the property would have all gone to the husband, so long as he lived separate from Jhalawar whether, Old or New (and the deposition had no other immediate effect), and in the 2nd case the son would have been the natural heir. The heirship of the husband and son in these two supposed cases would be based on law, which, *after the deposition* would be the only determining factor in the descent of property among members of the family of the Ex-Chief. But the present Chief of Jhalawar or his State would come nowhere; between him and the Ex-Chief's family there is an unbridgeable gulf created by the Supreme Act of Government, which Act can neither be overridden by law, nor custom, nor usage.

It seems quite patent that the Maharaj Rana Bhawani Singh was more than conscious of the effect

of the Supreme Act of State upon his personal, political, and legalstatus. He knew in his mind of minds, when he was installed, that he could never rely on the plea of being the next-of-kin to the Ex-Chief, which was once for all discarded by Government. He also was painfully aware that the remote agnation he had put forward had only fulfilled the purposes of his selection as Chief, but was too loose and inchoate. Why otherwise did he allow himself to be fictitiously adopted by the grandmother of the Ex-Chief? It was ostensibly for religious purposes, but there was no religious purpose to serve when, as will be shown later, the Ex-Chief was living. Really it was a ruse to supply the deficiency in agnation, and to provide a false cement to bring into closer contact the Old and New Princely families of Jhalawar, the inadhesive nature of which stands self-exposed in the light of the Government of India's Act of Dismemberment.

On political, legal, and moral grounds, therefore, the whole property left by the Ex-Maharani Rathorji, whether received from her husband during his lifetime, or whether it descended to her on his death, ought to be regarded as her 'Stridhan,' which she was perfectly competent to will away.

If the view maintained above regarding the character of the personal property left by the Ex-Maharani has been proved to be correct, and if therefore, the making of a Will by her was valid, it would be irrelevant to enquire whether the present Maharaj Rana's adoption by the widow of Maharaj Raua Madan Singh, the founder of the original State, was valid; and next, whether he was the nearest agnate entitled to inherit her personal property, and the property which she held from her husband. But as these points have been raised in the Jhalawar memorandum in their 3rd ground of claim, it would be worth while to examine them in this place.

12. Adoption.

In section III of the Jhalawar memorandum, it is stated that "He (the present Maharaj-Rana) was adopted into the Ruling family by Maji Jaisalmeriji Sahiba, widow of the Founder of the State. But he

Adoption.

is the nearest heir even if his original lineage be considered."

The wording implies that the adoption has conferred an additional legal status on Maharaj-Rana Bhawani Singh, but it also carries with it the admission that even after being placed on the Gaddi of Jhalawar, he did not belong to the old Ruling family, without this adoption. The adoption seems to have been brought about with the object of claiming at Law, the property of the previous Maharanis of old Jhalawar, and to establish a relationship between himself and the Ex.-Chief and his wife, to be able to lay claim to the property left by them in the hope of being recognised as their heir. The term 'Majisahiba' is very often loosely made use of by the Jhalawar Darbar in speaking of the Ex.-Maharani, but nothing could be more inappropriate or misleading. It serves no useful purpose. 'Maji' or 'Majisaheba,' is an appellation invariably reserved for the mother of a Ruling Prince, be she a widow, as generally happens, or the wife of a deposed Chief, as was the case in Bharatpur very lately, and whether the Ruler is her son by blood or by adoption.

In the extract cited above, the use of the word 'Even' is mark-worthy. The 'Adoption' which is man's devise, and 'Nearest Kinship' which is God's handiwork, together, are used as a sort of double-barrelled gun intended for capturing the Ex.-Maharani's property. If the first misses fire, the second is always ready. But here the 'Adoption' argument is relied upon as if it would never fail. It is regarded as fully effective in creating the closest blood-relationship between the Old House and Maharaj-Rana Bhawani Singh, and therefore, between the latter and the Ex.-Maharaj-Rana and the Ex.-Maharani. On the Jhalawar pedigree table there is, however, a remark entered in parenthesis against Bhawani Singh's name that he was adopted 'for religious purposes by Maji Jaisalmeriji.' The pedigree is meant entirely, as everywhere, for showing the course of inheritance with respect to property, the religious purpose, therefore, in the present instance becomes casual and occupies a secondary or unimportant place.

'Adoption' is thus tossed about to secure a fancied advantage, and is one more instance of the struggling pangs of conscious truth which cannot be hidden. The subterfuge of false assimilation, at best, makes Bhawani Singh the uncle of the Ex.-Chief; and if his next-of-kin, only for religious purposes. He cannot on his own admission secure the 'reversionary right,' which was destroyed by his being *selected* by Government to occupy the newly established Gaddi of Jhalawar.

The truth seems to be that on the deposition of the Maharaj-Rana Zalimsingh in March 1896, when Government decided in 1898, to reconstitute Jhalawar State for providing for the descendants of the relatives of the famous regent Zalimsingh, the latter's line having become extinct, in order to secure the New Gaddi, it became necessary for Bhawani Singh to prove that, as he called himself a 'Madhavat,' he was lineally descended from Madho Singh, the 1st Foujdar of Kotah, an ancestor of the great regent Zalimsingh. Bhawani Singh must have presumably on that occasion produced a Genealogical table to substantiate his claim, and to convince Government that he fulfilled the term of the preamble of the Sanad granted to him regarding his relationship. That table and the one filed in the present case ought to be identical, but this fact *must be verified*, lest 'Fabrications on Fabrications arise,' which is not improbable, considering the utter futility of this 'Adoption.' The old Jhalawar (1838) was constituted in the time of Madan Singh, regent Zalimsingh's grandson, whose widow it seems was alive at the time of Bhawani Singh's appointment to New Jhalawar. It was, therefore, deemed a clever *coup d'état* to bring about this adoption for future use. To make the farce complete, the rite could have been further abused and prostituted by arranging the adoption of Bhawani Singh by the Guheliji, who was also an Ex.-Maharani like the Rathorji, and the wife of the Ex.-Maharaj-Rana, and who was along side of Jaisalmeriji, equally available. The closest relationship between himself and the Ex.-Maharaj-Rana would then have been secured, and the reversionary right to claim the Rathorji's property could not have rested on a better and more truly laid

foundation. A more ridiculous situation it is impossible to imagine.

The effect that was intended to create on the heirship by this adoption is obvious. Presuming that it was performed with proper ceremony, and was attended with all the formalities of law and usage, it is still a question whether the lady was competent to make the adoption. Maji Jaisalmeriji was the wife of Maharaj Rana Madan Singh, the grand-father of the Ex-Chief, and during the latter's life-time no need for a fresh adoption could have arisen. The Ex-Maharaj Rana, who by his deposition lost his rights, as a Ruling prince to all he possessed in the State, was not deprived of his religious or social status which he had acquired by his adoption into the Jhalawar family, as that status, it is admitted, is separable from legal status, and can exist independent of it. He, therefore, still remained for religious purposes, a son to Pirthi Singh, and a grand-son of Madan Singh, and was fully competent to offer to the *manes* of his ancestors, the proverbial rice and water. If the present Chief's adoption could be recognised, it could only be so, as a son to Madan Singh's widow, but not to Madan Singh. He might possibly inherit his adoptive mother's property, but by the adoption he cannot acquire the status or competency to claim the Old State, which was disintegrated and had become extinct before his adoption, by an act of the Imperial Government. Far less, does the adoption secure any nearness of relation between the present Chief and the Ex-Maharaj Rana. It has been already remarked that consanguinity is the only test of heirship, and the duty of offering sacrifices follows inheritance.

13. Reversionary Right.

Reversionary right.

In the memorandum it is stated, as has already been noted, that "Maharaj Rana Bhawani Singh is the nearest heir, even if his original lineage is considered." In this connection Dr. Sir Tej Bahadur Sapru in giving his legal opinion remarks that "according to the pedigree shown to me, I find that the present Maharajah of Jhalawar is his (the Ex-Maharaj-Rana's)

nearest heir." But the question remains if the pedigree is genuine, and gives the true genealogical tree, so as to enable with certainty, to determine the nearness of relationship of the present Chief to the Ex-Chief? The Kishangarh contention is that the genealogical table filed by the Jhalawar Darbar with their memorandum is on the face of it defective, and seems to have been very probably made to order, and not unlikely fabricated. As a challenge, and in proof of their contention, genealogical tables obtained and compiled by the Kishangarh Darbar from six different authoritative sources are attached herewith viz. Table 1, from Tod's Rajasthan; Table 2, from Chiefs and Leading Families in Rajputana; Table 3. from Imperial Gazetteer, Provincial Series; Table 4, from Kathiawar Gazetteer, Table 5, from Hind Rajasthan; Table 6, from Jhala Wansh Waridhi, in Gujarati. (Annexure 28, Page LIX). A certified copy of the Jhalawar pedigree, Table No 7, is also attached for reference and comparison (Annexure 4 page XXIV). Presumably, as has been remarked before, this table is the same which was produced before the Government of India, when the Maharaj Rana Bhawani Singh was selected to the new Chiefship, but this it is submitted, must be verified.

Before proceeding to closely examine the Jhalawar genealogical table (See Annexure No. 28 Table 7) with a view to show the flaws, inconsistencies, and fabrications contained in it, it is advisable first to interpret it, and find out its conclusions.

Interpretation
of Jhalawar
genealogical
table

To begin with, the table shows that Bhav Singh has three sons, Arjan Singh, Madan Singh, and Agar Singh, and, as such, he is the progenitor of three families, of which each of his sons is a fresh stock of descent. Arjan Singh is clearly shown as the founder of the Wadhwan Branch, from which Bakhat Singh, who is shown to be in the 9th generation from Bhav Singh, was adopted into the Jhalawar Family by Maharaj Rana Pirthi Singh, under the name of Zalim Singh, who was ultimately deposed. Sobhag Singh and Bharat Singh are respectively the 1st ancestors of the two branches, Fatehpur and Kola as they were called in Old Jhalawar; Urmal and Kalmandi being

pari-passu their names in the New State—they are both being represented by Bhawau Singh and Arjan Singh shown as ‘Mādhavat’ in the Chiefs and Leading Families of Rajputāna, Page 74, 2nd Edition, 1903.

It is worthy of remark that the dotted line under Madan Singh is not continuous with the dotted line under Agar Singh, and yet the two dotted lines have been joined at their near extremities by a straight line departing from the vertical direction, the effect of which can be no other than to make the two dotted lines a continuous whole. If the general rule regarding the framing of genealogical tables had been followed, a small vertical line, connecting Bhav Singh with the horizontal line below him, was absolutely necessary. But if without this line the Pedigree makes him the father of those who are linked with the horizontal line below him, it follows that both Madan Singh and Agar Singh would be the fathers of Himmat Singh, Prithi Singh, Sobhag Singh and Bharat Singh, who are linked with the dotted lines below them, should these lines be taken as continuous and to form one horizontal line; but that would be absurd. What, then, is the meaning of connecting the two lines by joining their near extremities? By taking the two lines as one, and disconnecting it with Agar Singh, Madan Singh would then have four sons, Himmat Singh, Prithi Singh, Sobhag Singh and Bharat Singh. Similarly, taking Madan Singh as disconnected, Agar Singh would be the father of those very four sons. In the former case, Madan Singh would be the progenitor of the Jhalawar family, including the branches represented by Bhawani Singh (adopted into Jhalawar) and Chaturbhuj Singh, Thakurs, of Fatehpur and Kola, of the old Jhalawar State or as now called, Urmal and Kalmandi, in the New State. (See Chiefs and Leading Families in Rajputāna, Page 74, Second Edition 1903.) In the latter case, Agar Singh would occupy a similar position. In any case Govind Singh, the 4th ancestor of Chaturbhuj Singh, is related to Madan Singh or Agar Singh in the 4th generation; and on this table Bhawani Singh and Chaturbhuj Singh are related to their common ancestor in the 6th and 7th degree respectively. This table would show that, if a vacancy occurred in

Jhalawar so long as there was a lineal descendant of Madan Singh or Agar Singh, there would be no need to go to the Wadhwan Family to find out a successor.

Other tables
compared.

It will be seen by looking into the six tables that they are all unanimous on the point that Bhav Singh had a son named Madho Singh, who, history says, came to Kotah in the time of Maharao Bhim Singh, and was appointed Foujdar, his sister being married to the heir-apparent. Tables 1, 2 and 3 having to do exclusively with the Jhalawar Family, mention only Madan Singh from amongst the sons of Madhosingh; but the Kathiawar Gazetteer, and 'The Hind Rajas than', which deal with Gujrat and Kathiawar, say that Madho Singh had four sons, Madan Singh, Arjan Singh, Abhey Singh and Mansingh, to which the 'Jhala Vansh Waridhi' (Ocean of Jhala Clan) a fuller and more exhaustive treatise of the Jhala clan, adds four more, Agar Singh, Bhim Singh, Karan Singh, and Sawant Singh. All the six authorities agree that Madan Singh, the 2nd Foujdar of Kotah, had only two sons, Himmat Singh and Pirthi Singh.

The tables 4, 5, and 6 show that Arjan Singh the second son of Madho Singh was the progenitor of the Wadhwan Branch; that the 3rd and the 4th son, namely Abhey Singh and Man Singh, became the Chiefs of Chuda and Jhammar, respectively. The 'Vansh Waridhi' which mentions four other sons, disposes of them in the following manner :—

Fifth son Agar Singh died heirless, 6th Bhim Singh committed suicide, 7th Karan Singh became the Chief of Nagnesh, and the 8th Samat Singh was murdered.

All of them, except Madan Singh, returned to Kathiawar, the land of their Fathers. Thus it is clear that both the Wadhwan and Jhalawar families, who are Madhavats, have Madho Singh as their common ancestor, and yet his name is conspicuous by its absence in the Jhalawar Pedigree. Besides Kanwar Bhawani Singh of Fatehpur is described as a Jhala Rajput of clan Madhawat (See Page 243 Volume II, of Mr. Herbert Sherring, 'Mayo College or the Eton of India'). Also Thakur Chhatra Sal of Urmal, formerly of Fatehpur, the father of H. H. Bhawani

Singh, is described as "descended from Madho Singh, Foujdar of Kotah, great grand-father of the 1st Raj Rana Zalim Singh." Similarly Arjun Singh of Kalmandi, formerly of Kola, is shown as descended from Madho Singh. (See Page 74, Chiefs and Leading Families in Rajputana, 2nd Edition, 1903). It follows therefore, that both Fatehpur and Kola represented by Bhawani Singh and Arjun Singh are 'Madhavats', and must have Madho Singh, the 1st Foujdar of Kotah, as their progenitor and common ancestor, in the same way as the progeny of Arjun Singh and Madan Singh. Obviously therefore, Madho Singh, the 1st Foujdar of Kotah, who is admitted on all authorities to be the son of Bhav Singh, should find place in the ancestry of Fatehpur and Kola Families. Madan Singh, Madhosingh the 1st Foujdar's son, had only two sons Hinmat Singh and Prithi Singh; therefore, Sobhag Singh and Bharat Singh, the progenitors of Bhawani Singh and Arjun Singh of Fatehpur and Kola, respectively, must be discarded as sons of Madan Singh. Neither can they be sons of Agar Singh, who is shown to have died without any issue, according to the 'Jhalawar Vansh Waridhi' (See Page 994). On the same authority, Bhawani Singh and Arjun Singh cannot be traced to be descended from any of the sons of Madho Singh. Two mistakes, therefore, in the Jhalawar Pedigree are patent. First, the omission of Madho Singh, Bhav Singh's son; and second, the linking up of the family of Bhawani Singh and Arjun Singh with Madan Singh. Even supposing Agar Singh, died heirless and did make any adoption, he could not have adopted two sons at the same time. Agar Singh's introduction in the Pedigree to the exclusion of his other five brothers, and making him appear as the progenitor of the two collateral families of Fatehpur and Kola, from the former of which the present Chief was selected cannot be without some meaning. This will be dealt with later. In the meantime, the remark must be reluctantly made that if the omission of Madho Singh's name is a Himalayan blunder, the role, which Agar Singh is made to play in the pedigree, is a wilful fabrication.

Two great mistakes in the Jhalawar Pedigree.

Other Inconsistencies.

Thakur Arjun Singh, father of Chaturbhuj Singh of Kola, the second collateral Branch with Fatehpur, is shown in the "Chiefs and Leading Families in

Rajputana," Edition 1894, Page 87, as being descended in the 6th generation from Madhosingh, an ancestor of the then Ruling Chief Maharaj Rana Zalim Singh. On the Jhalawar pedigree table, No. 7, as has been pointed out above, he is shown as descended from Madan Singh in the 7th generation. In the Jhalawar table, the impression is sought to be created that the Fatehpur Brauch represented by Bhawani Singh is the senior and more important one. The actual facts are, however, different. The authority just quoted, which says that Arjun Singh of Kola was descended in the 6th generation from Madho Singh, speaks of Chhatrasal of Fatehpur as being closely related to the Thakur of Kola. That Kola was the senior and more important is clear. This is also corroborated by other evidence. Before the old Jhalawar State was founded, the ancestors of both Bhawani Singh and Chaturbhuj Singh were insignificant Jhalas. It was when their ancestors Banesingh and Govind Singh followed the 1st Maharaj Rana Madan Singh, to the Chhaoni in 1838, that they were granted Jagirs by the founder, as being his dependants belonging to the Jhala clan. Govind Singh received a Jagir of the village Kola of the annual income of Rs. 1501, his tribute being Rs. 144 every other year. Bane Singh, the third ancestor of Bhawani Singh of Fatehpur, was granted a Jagir of two villages with the annual income of Rs. 1,325 paying a tribute of Rs. 140 every second year. The relative proportion of the values of the two Jagirs, and the amounts of their tributes show which way the seniority and importance lie. This, which was the true and original order of rank, was reversed by Raj Rana Bhawani Singh on his accession to New Jhalawar. He gave to Chhatrasal of Urmal, his own father, a Jagir of three villages of the annual value of Rs. 2,300, in lieu of his old Jagir, to which three other villages were added subsequently in Jagir, which latter was converted into a monthly cash allowance of Rs. 500. Arjun Singh of Kalmandi's great grand-father, Govind Singh, on the formation of the New State, was given by Maharaj Rana Bhawani Singh two villages in lieu of his old Jagir, yielding an annual revenue of Rs. 2,092, and paying a yearly tribute of Rs. 25 ; he was further appointed officer of the 'Paigah' and received pay and cash allowance altogether amounting to Rs. 100

Relative
Seniorities of
Kola and Fateh-
pur.

a month. (See Chiefs and Leading Families in Rajputana, 2nd Edition 1903, Page, 74). This arrangement has obviously reversed the seniority and importance of the two branches, but does not affect the original seniority, by parentage and birth, according to which Kola would still remain the elder branch of the family, allowing that Kola and Fatehpur had a common ancestor. It is anyway, clear that Kola was, if at all, a nearer 'Madhavat' than Fatchpur. It is not improbable that neither of them was descended from Madho Singh, for it is difficult to understand why their families should have remained uncared for and in total obscurity, when they had such powerful Madhavat relations, from Madan Singh the 1st, down to Madan Singh the 2nd, including the all powerful Regent Zalim Singh, during whose time, if blood was thicker than water, one of their ancestors should have long ago enjoyed the boon of a Jagir.

With respect to the Fatehpur family, of which Chhatrasal was the representative, the doubt that they were probably not 'Madhavats,' is not without foundation, for, at Page 243, Mr. Herbert Sherring, in his History of the Mayo College, Volume II, Edition 1897, says that Kanwar Bhawani Singh of Fatehpur belongs to the Sadri family of Mewar; and in the Chiefs and Leading Families in Rajputana, Edition 1894, at page 87, it is said that Thakur Chhatrasal of Fatehpur "by birth belongs to the Sadri Family of Mewar, his father Thakur Himmat Singh having been adopted by Thakur Binai Singh". Bhawani Singh is a Sadri name, and was therefore used by Chhatrasal in naming his son, the present Chief, in as much as it was the name of the natural father of Thakur Himmat Singh in Sadri, before he (Himmat Singh) came in adoption to the founder of the Fatehpur family, Binai Singh of Jhalawar. It is insistently pointed out by historians, and all the six great authorities from which the genealogical tables prepared by the Kishangarh Darbar are derived, that it was the family custom in Jhalawar which enjoined that only the four names of Zalim Singh, Madho Singh, Madan Singh and Prithi Singh were to be assumed by the Rulers of this House. Bhawani Singh, therefore, when he was appointed Ruler of New Jhalawar, if the conti-

nuity of the old ruling House had not been broken, should have in the ordinary course assumed the name of Madho Singh, which name again he should have been proud to bear, if he was a true 'Madhavat'. But Bhawani Singh has tenaciously clung to his Sadri name, which more than bears out his Sadri descent and leanings. Why and how, then, it may be demanded, this appellation of 'Madhavat' became the battle-horse of the families of Kola and Fatehpur? An answer to this question is given in the following paras.

Maharaj Rana Madan Singh was the founder of the old Principality of Jhalawar, and it has been remarked above, that he gave the Jagirs of Kola and Fatehpur, to Govind Singh and Binai Singh respectively, because they were amongst his Jhala followers, not because they laid any pretensions to being called 'Madhavats.' Prithi Singh, who succeeded Madan Singh, knew full well the truth of the origin and lineage of his contemporaries holding the estates of Kola and Fatehpur. In 1873, when Maharaj Rana Prithi Singh stood in need of making an adoption, Bhawani Singh was just born in the Fatehpur family, and Arjun Singh was holding the Kola Jagir. If Bhawani Singh and Arjun Singh were 'Madhavats,' and if both related to him in the 7th degree, being descended from an ancestor common to himself and them both, as is alleged in the Jhalawar pedigree table, he was bound, according to Rajwara custom, to adopt a son from the families of Kola and Fatehpur; for the terms of the Treaty dated, the 8th April 1838 were "That the British Government granted certain territories to Raj Rana Madan Singh, his heirs and successors, being the descendants of Raj Rana Zalim Singh, according to the custom or succession obtaining in Rajwara" (See Annexure No. 17, Page No. XLVI). And there exists no doubt that the custom of Rajwara in the matter of adoption, requires that the nearest-of-kin is the only eligible person to be taken in adoption. As actually came to pass, Maharaj Rana Prithi Singh with his sure knowledge of facts, made his choice of Bakhat Singh of the Wadhwan Branch, in whose veins ran the blood of Madho Singh as much as in himself.

Why Adoption
of Bakhat Singh
from Wadhwan
preferred?

Well may the Ex-Maharaj Rana Zalim Sin complain, as is stated at Page 10 of the Jhalawar State Papers, Part III, in his Kharita to His Excellency the Viceroy that "he (Bhawani Singh) is a pretender and calls himself heir to the Gaddi, but as a fact he is not the heir to the Gaddi. Had there been any one of the family, who could claim himself to be the heir, why should Maharaj Prithi Singh have called me from Kathiawar and made me his successor."

Bakhat Singh
related to Prithi
Singh in 9th and
not 8th degree.

Bakhat Singh is shown to be related to Pirthi Singh according to the Jhalawar table in the 8th degree, but, in reality, being descended from Madho Singh, was related in the 9th degree, as will be seen from the different genealogical tables put in evidence by the Kishangarh Darbar (See specially Chiefs and Leading Families in Rajputana, Editions 1894 and 1903, Pages 80 and 73 respectively). The two editions of the Chiefs and Leading Families are purposefully referred to here, because the 1st was issued when Zalim Singh was on the Gaddi, and the 2nd, when Bhawani Singh was the Ruler. If there was any discrepancy with regard to the degree of Bakhat Singh's relationship with Pirthi Singh, it should have been contradicted, and corrected in the subsequent issue by the Jhalawar authorities, who were responsible for the information contained in that Edition, which they must have supplied to Government. This consideration casts still greater doubt on the genuineness of the pedigree adduced in evidence by Jhalawar.

Motive of
preparing a false
pedigree.

By omitting to show Madho Singh as the son of Bhav Singh, the father of Madan Singh, the object served is that he ceases to be the common ancestor of the Wadhwan and Jhalawar Families. By making Madan Singh as the common ancestor of the Jhalawar Family and the collateral Branches of Kola and Fatehpur, the object can be no other than to exclude the Wadhwan Family, and to confine the succession and inheritance to the family of Madan Singh, the son of Madho Singh 1st, Foujdar of Kotah.

'Madhavat'
or 'Madanavat'?

The fact seems to have slipped from the present Jhalawar Darbar's memory that by adopting Madan Singh the 1st, as common ancestor with the Ex-Chief, the Fatehpur family becomes a 'Madanavat' losing all

title to be called 'Madhavat'. But the latter title was invented to meet the exigencies of the hour, when the 1st vacancy on the old Gaddi occurred, and Fatehpur and Kola both made a desperate bid for it. So when Zalim Singh was desposed, it suited Bhawani Singh best to become a 'Madanavat,' for manipulating degrees of relationship most favourable to himself in the pedigree. If the present pedigree of Bhawani Singh had been effective in 1873, when Maharaj Rana Prithi Singh wanted to make up his mind regarding adoption, surely Bhawani Singh or his father were more eligible for being adopted, being in the 6th and 5th degree, than Bakhat Singh who was in the 8th degree of relationship to his adoptive father. Of course, if the Jhalawar pedigree was reliable, as it is not, Bhawani Singh would be a nearer relation than Chaturbhuj Singh, whom it is the object of this pedigree to exclude.

For further inconsistencies, reference is invited to the pedigree Tables Nos. 8 and 9. No. 9 was prepared and produced by the Jhalawar Darbar in 1913, when they contested the claim of the Ex-Maharani Rathorji to take the property left by the Ex-Maharajrana at Benares. In it no attempt is made to mislead the relationship subsisting between Madan Singh and Agar Singh, each being represented as the ancestor of a separate branch of the family of Bhav Singh who is shown to be the father of both, in the same way that Arjan Singh who is also their common brother is shown as progenitor of the Wadhwan branch also descended from Bhav Singh. In the Pedigree No. 7 filed by the Jhalawar Darbar in the present case, they have made the confusion worse confounded by connecting the line under Madan Singh with the line under Agar Singh, and making it appear that the Wadhwan branch was dissimilar to them in ancestry. There is however, the same mistake in both these Pedigrees, and it is that Madho Singh and not Bhav Singh is the father of Arjan Singh, Madan Singh and Agar Singh. Table No. 8 shows the correct relationship of Bhav Singh, Madho Singh and Madan Singh. In Table 9. Bhawani Singh is shown as having succeeded Ex-Maharaja Zalim Singh by operation of a rule of Hindu Law, which is not a fact,

while in Table 7, he is shown under the Ex-Maharani Rathorji as if he was her son by adoption or blood-relationship, which also is contrary to truth. It is evident that the omission of Madho Singh from all Pedigrees produced by the Jhalawar Darbars on no less than three occasions 1896, 1913, 1920, is a notorious fact, and is alone sufficient to condemn those Pedigrees as pieces of reliable evidence.

Bhawani Singh's relationship to the Ex-Maharani.

Why Bhawani Singh has been linked with the Ex-Maharani Rathorji in this Jhalawar table, can both be imagined and understood. He is neither her son nor her husband's, by blood or by adoption, and it is a logic which can only satisfy the Jhalawar Darbar, which makes it appear that Bhawani Singh was the son of Ex-Maharani Rathorji for purposes of inheritance, while at the same time he is the adopted son of the Widow of Maharaj Rana Madan Singh, the grand-father of her husband, for religious purposes. The adoption was evidently manufactured with a set object, which having failed, introduces further confusion in the pedigree; but that need not be commented on, as the adoption has been admitted to be for religious purposes and not for taking property.

Pedigree false and unreliable.

More convincing arguments it is not possible to advance, and it is hoped, it has now been made abundantly clear, that the document relied on by the Jhalawar Darbar to prove that Bhawani Singh is the next-of-kin to Zalim Singh is entirely untrustworthy. It is this pedigree table, which bristles with so many glaring inconsistencies and falsehoods, which is a tissue of skilful and wilful misrepresentation, which is not worth the paper on which it is drawn up, that is relied on by Dr. Sir Tej Bahadur Sapru in certifying that Bhawani Singh, the present Maharaja of Jhalawar 'is his (the Ex-Maharaj Rana's) nearest heir.' The reversionary claim, on the death of the Rathorji, to the property which was left by her or which has come to her from her husband, based as it is on the genuineness of the Jhalawar pedigree, in the circumstances fully explained above, stands completely demolished.

The Ex-Raj Rana Zalim Singh, it has been shown before, came from the Wadhwan family being the son

of Kesari Singh, 2nd son of Raj Singh, who was the ruler of Wadhwan, descended from Madho Singh, the common ancestor of the two Houses of Wadhwan and Jhalawar. By his deposition the Ex-Maharaj Rana (See Kathiawar Gazetteer, Pages 695-696) though retaining his place as regards religious purposes, ceased to have any footing in the Jhalawar family, in respect of receiving or giving away or transmitting property therein. As, for this latter purpose, he must go back to the Wadhwan family, very likely his next-of-kin may be discovered there, but that is immaterial in the present case. The Jhalawar Darbar have advanced their claim to heirship on the basis of a false pedigree, and this plea of theirs falls to the ground. The burden of proof entirely lies on the present Chief to show that he is the nearest kinsman of the Ex-Maharaj Rana, and what concerns for the present is, that this he has not been able to prove by the Pedigree put by him in evidence.

15. Grounds of Claim 4 to 7.

The third ground of claim which required careful examination was by far the most important. It trespassed upon the difficult legal questions relating to the law of 'Stridhan', Widows' Estate, Adoption, and Inheritance. The political nature of the case which affects the character of the property, particularly the 'Benares property,' and the legal character of the two persons who were holders thereof, had to be carefully discussed. That being done with as much fullness as was possible, the next ground of claim may be dismissed in a few words. The Ex-Maharani's stay at Jhalawar after the deposition of her husband was forced by circumstances. There was no protection of Maharaj-Rana Bhawani Singh that was implied in it, and the thin veil was torn asunder as soon as the propitious moment arrived. The Maharajah of Kishangarh's letter, addressing the Jhalawar Darbar on the subject of inviting his aunt to Kishangarh, was no more than a formal matter, and though Maharaj Rana Bhawani Singh was the eldest male member of the family in which the Ex-Maharani was then residing, there was no suggestion that the Rathorji could not leave Jhalrapatan without his permission. The

Fourth ground
of Claim.

Ex-Maharani's position after her husband's deposition became like that of a widow in Bhawani Singh's family ; and, therefore, she was perfectly free in the matter of the choice of her residence, more so after her husband's death. Here is the Law on this point. 'The obligation of the widow to reside with her husbands' family is now treated as a mere moral one, and the infringement of the same by the widow does not carry with it any penalty (MacNaghten's Principles of Hindu Law, Edition 1884, Page 195). The residence, or the change of it, by the Rathorji cannot affect her right to possess the jewels absolutely, nor can it be any excuse for the inadequate vigilance shown by the Jhalawar Darbar in protecting their interest, if any such existed, in the jewels. The question regarding the Jewellery of the Ex-Maharani was not raised until ten years after the deposition, because all that time the Jhalawar Darbar never feared that the lady would take an independent line of action, and assert her rights as the wife of a deposed Chief. They believed all along that she would die under their roof, and would not be able to make a Will, if not prevented from making one there, had she wished to do so. The Rathorji became a widow in October, 1912, and died in December, 1918. During this period at any rate, the Jhalawar Darbar should have taken energetic measures to make sure of their claim regarding the jewels, if the matter was one of such great importance. Of course, there was probably good reason to keep quiet during the Ex-Maharaj Rana's life-time, as he would have forthwith proved that it was a bogus claim ; but no such fear existed after he had passed away.

To say, therefore, that the Jhalawar Darbar made no objection to her retaining the "State jewels" till the time of her death, is to put as good a gloss in outer appearance as was possible, on their conscious inability to force the surrender of these jewels. Of the condolence deputation, suitable notice has already been taken. The whole subject is dealt with under 'State jewels' at pages 6, 7 etc., etc.

The fifth ground
of claim.

The enquiry into the right to acquire the 'jewels' being belated till 1907, has been already commented on, and requires no fresh remark (*vide* pages 4 to 8).

Sir Elliot Colvin's Obiter Dictum in the Award relating to the 'Benares property' has been treated already, and it is enough to say that he conceived hypothetical conditions, which closely examined with the present case, could not be taken as being on all fours with it. He conceived that if the Raj Rana Bhawani Singh had succeeded the Ex-Maharaj Rana, as ordinarily happens in the case of successors in the line to the Gaddi which remained unaltered, the case would have been different. But Sir Elliot himself has remarked that "the Raj Rana was not a very near relative of the Ex-Raj-Rana." The succession, if at all, was not of the ordinary kind. It was an appointment by selection on the deposition of the predecessor, and was preceded by the dismemberment of the Old State and the formation of a New one under a New Chief. The property in question is referred to by Sir Elliot Colvin as "if it was 'State Jewels' or other property which passed in succession from one Chief to another." He cannot be supposed to have included in his remark the State jewels which have passed in succession, not from a male Chief to a male Chief, but from a deposed male Chief to his wife, whose absolute property they had become by inheritance, having acquired the incidents of 'Stridhan.' The Jewels in dispute had long ago ceased to be the articles of the 'Obari' and Toshakhana, and after the deposition became the absolute property of the lady who possessed them, and then there was the deed of gift which leaves no doubt as to the owner and the character of the ownership. Before the State jewels could be claimed, under the casual remark in the Award, the overwhelming evidence adduced by the Kishangarh Darbar negativing the Jhalawar Darbar's claim under this head, will require to be rebutted.

The question of the State jewels being governed by any custom prevailing in Jhalawar or in Rajputana among the Ruling families has been discussed at great length, and the circumstances under which those jewels were converted into 'Stridhan' property have been detailed, and in this particular instance, it has been proved that the Ex-Maharani was fully competent to dispose of them the best way she pleased. It has not been proved that they are 'State jewels' given

The sixth ground
of Claim.

The seventh
ground of Claim.

to her from time to time, nor, that there was any condition attached regarding their limited use, when they were issued. The condition, the Hindu Law says, must be explicit. It is thus defined 'Condition is the restriction that this article or the like, which is given to you is to be put on by you only on days of festivities and not any other time.' This is Mitra-Misra's gloss on Katyana's text (Golap Chandra Sarkar's translation of *Virmitrodaya*, Page 221). There is no such custom in Rajputana regarding jewels given to a lady, at or after marriage, by her husband, and the peculiar custom of Jhalawar has not been proved. Above everything the fact remains that all the jewels became 'Stridhan' and her personal property, her absolute ownership over them being confirmed by the deed of gift of the husband executed by him in her favour on 10th January, 1896.

16. Answers to the Points of Issue.

The first point regarding the sum of 4 lacs has been adequately treated at pages 46 and 47. The answer is, the Kishangarh Darbar had no reason to know of the transaction. When, however, they made enquiry in connection with the present case they discovered the true circumstances which have been detailed *Supra*. Anyway, it is certain the sum was gifted to the Ex-Maharani and was absolutely at her disposal, the present Jhaiawar Darbar having not the slightest legal interest in it.

The second point whether the present Maharaj Rana is entitled to inherit the movable property including the Promissory Notes has been discussed at pages 41 to 64, and if the legal and political view regarding the 'Benares property' taken by the Kishangarh Darbar is held to be sound and correct, the Jhalawar Darbar's claim to inherit it cannot prevail. The 'Benares property,' if it is not allowed to be reckoned as 'Stridhan', can only go on her death to the nearest heir of her husband. The point is therefore, have the Jhalawar Darbar proved that Maharaj Rana Bhawani Singh is the next reversionary heir? The document of pedigree which they have produced

cannot bear examination for a moment. Its defects are glaring and its fabrication manifest. On the strength of it, the Jhalawar Darbar cannot win the case. They ought to have proved their position, and having failed to do so, they cannot profit by raising the question of the incompetency of the Ex-Maharani to make a Will. Even if it would be decided that the lady was legally incompetent in this respect, that, in no way, improves the claim of the Jhalawar Darbar, if the nearest degree of kinship has failed to be established.

Regarding the other movable property, it was never a disputed point that it was 'her Stridhan.' Dr. Sir Tej Bahadur Sapru is studiously silent on that point. It was obviously her 'Stridhan' of which she had unrestricted right to make a Will.

The permanent transfer of the so-called 'State jewels' of the Maharani was confirmed by the Ex-Maharaj Rana by the deed of gift *inter vivos*. The custom of claiming their return at death, if it existed at all, could only apply, in the event of intestacy. The 'State jewels' fall under the category of 'Saudayik Stridhan,' the right to dispose of which was absolute (pages 91, 36, to 42).

To the question, whether the Jhalawar Darbar are entitled to appropriate the unspent savings from the income of the Jagir villages, which remained in the Ex-Maharani's possession until her death, the answer will be found on page 916, § 630, Mayne's Hindu Law and Usage, 9th edition. The villages in question were property, the profits of which the Ex-Maharani was entitled to appropriate, by special arrangement. The savings of such property and everything which was purchased out of such savings, belonged absolutely to herself, and yet the Jhalawar Darbar thought it proper to confiscate, on her death, the lady's treasury which existed at the head-quarters of her Jagir property. This question has been adverted to at pages 16-17.

If anything, on grounds of Law and Equity, the amount of some Rs. 6,000 illegally confiscated by them should be decreed against them.

17. Attested Documents, Etc.

The following documents have been duly attested by Major (now Colonel) D. M. Field, I.A., Resident, Jaipur, on the 2nd November 1925.

- (1) The Will of the late Ex-Maharani Rathorji of Jhalawar.
- (2) The deed of gift made by the Ex-Maharaj Rana, before his deposition in favour of the Maharani Rathorji.
- (3) The list of jewellery dedicated to the Temple of Gusainji of Kotah by the Ex-Maharani, in her own hand-writing.
- (4) Colonel Berkeley's Kharita to the Ex-Maharani regarding her claim to the property left by Guheliji, her co-wife.

(See Annexure No. 30 Page LXII).

The Darbar have in their possession several specimens of the signatures of the Ex-Maharaj Rana Zalim Singh, and the Ex-Maharani Rathorji, which can be produced along with the above-mentioned documents for purposes of identification and verification, if required.

18. Recapitulations.

Recapitulation.

To recapitulate. The Ex-Maharani Rathorji left at her death, certain property consisting of jewellery and cash which she devised in favour of her Nephew the Maharajah of Kishangarh. All the jewellery she possessed was, the bulk of it, gifted to her unconditionally by her husband when he was on the Gaddi and fully empowered ; or, it was received from her husband or from her relations, both hers and his, as Wedding presents. As such, according to Hindu Law, all the articles of this nature must be regarded, as has been fully proved as 'Stridhan proper,' over which a Hindu Widow possesses an absolute right of disposal. The jewels claimed by the Jhalawar Darbar, all of them, fall in the category of 'Stridhan' properly so called, and the Ex-Maharani was fully competent to will them

away as she did. If some of them as is alleged, partook of the character of 'State Jewels', they ceased to be so after the event of the gift by the Ex-Maharaj Rana. And if they could be at all styled 'State Jewels', the New State of Jhalawar as it was handed over to the Maharaj Rana Bhawani Singh after an interregnum of nearly 3 years, could not, even by a preversion of the imagination, claim to include them among the articles belonging originally to its Toshakhana, and therefore ultimately returnable to it. If the jewellery in dispute is allowed to be 'Stridhan' property so called, and possessed therefore, the incidents of property which could be bequeathed, it is immaterial whether the testator lady was a widow or whether she was a member of a joint family. The jewellery was absolutely at her disposal, and nothing could qualify her right to make of it a testamentary disposition. After it has been willed away, the question of a right to acquire it by inheritance or succession does not at all arise, and it is beside the point whether the Maharaj Rana Bhawani Singh was a reversioner and the nearest surviving kin of the Ex-Maharaj-Rana Zalim Singh. The law is clear on this point.

Turning to usage, what does it point to? The movable property left by a Hindu Widow belonging to a Rajput Princely family becomes part of State Treasure and finds its way into the Toshakhana. The widow is presumed to die as a member living under the family roof. Could this be said of the Ex-Maharani Rathorji? Her connection with the old Jhalawar was severed from the day her husband was deposed. Then for a time she lived in the palace which became Maharaj Rana Bhawani Singh's on the formation of a new chiefship, but her position was anomalous. Apparently, by force of circumstances, the membership of the family may have been imposed upon her, but legally it was long since determined, and she never willingly accepted it. Her movable and immovable property was always treated separately, and allowed as such both by the Government of India and the States of Kotah and New Jhalawar. Whatever may be the custom of Rajputana, it is powerless to destroy the inherent character of property so called 'Stridhan', which could only be claimed by the State Toshakhana on the owner's

death, if she failed to dispose of it by a gift inter vivos or a bequest by will. The custom only operates when a will or a gift during life-time has not intervened. The property of the Ex-Maharani Rathorji was her Stridhan. She was not a member of the joint family, of which the Maharaj Rana Bhawani Singh was 'Karta', nor did she die under the family roof. The custom of Rajputana which is so much relied upon by the Jhalawar Darbar, it seems clear, does not apply in the present case. It is still more preposterous to talk of the particular custom of the Jhalawar State. It has been proved in its place that even the original Jhalawar State did not live long enough to an age to create a custom. As a matter of fact, it is unthinkable that during its short life, it could have ventured to invent a custom or consolidated it contrary to the spirit and genius of Rajput States of established standing; and what custom the new Jhalawar may choose to adopt is of no consequence to the present enquiry. So far therefore, as the jewellery of the late Ex-Maharani is concerned, no law or usage lends support to the claim advanced by the Jhalawar Darbar.

These remarks apply also to the other property including the accumulation of arrears of unspent political pension which came to the Ex-Maharani under the award of Sir Elliot Colvin. The political circumstances which led up to the whole movable estate left by the Ex-Maharani Rathorji, have been treated in detail in the previous pages, and the political nature of the 'Benares property' in particular, will from a careful study, appear prominent and pronounced. The deposition of Maharaj Rana Zalim Singh was a supreme Act of Government. If Zalim Singh was disqualified from continuing to hold the old Jhalawar, the Maharaj Rana Bhawani Singh the Chief of New Jhalawar was as much disqualified from succeeding to the estate either of the Ex-Maharaj Rana or the Ex-Maharani. The Ex-Maharajrana was not considered a member of the new Jhalawar family nor was the custom of Rajputana made applicable to the effects left by him. His property all went to the widow. He never for a moment could have thought that the absolute ownership which he possessed could change its character in the hands of

his widow. In order to prevent a union of the property he had unconditionally made a deed of gift, and regarding the 'Benares property' he could not have any fears, as its very creation was due to the act of Government and its re-union with Maharaj Rana Bhawanisingh's property by its nature inconceivable. Could that re-union therefore, which was ruled out by the Act of Government, now take place? And could the absolute control of that property by the widow be destroyed by the operation of law which, if outweighed by a clear proof of usage, is much more outweighed by an act of State. It would in these circumstances be reasonable and proper—nay just and equitable—to regard the 'Benares property' as unfettered in the hands of the Ex-Maharani. Though Mr. Mayne says that a married woman cannot devise property inherited from males, the same learned lawyer allows that a married woman may make a will of her 'Stridhan' or *any other property which is absolutely at her disposal*. It is contended that 'Benares property' does come under what may be called 'any other' property which is absolutely at her own disposal. This is the intention which must be inferred from the previous and subsequent conduct of the Ex-Maharaj Rana, and also from the conduct of the Ex-Maharani after her husband's deposition. The property that came to her from Benares was of a liquid nature, and could have been spent by her any way she liked. Did the Jhalawar Darbar make any attempt to restrict the Ex-Maharani's power over this property after the Award of Sir Elliot Colvin was given?

In case the view propounded above with regard to the 'Benares property' does not find favour, and it is only with respect to this property that any doubt about the absolute control of the Ex-Maharani, may be entertained, the question of kinship and reversion needs to be examined. The Maharaj Rana Bhawani Singh claims to be a reversioner and next-of-kin premising, that in the 'Benares property' the Ex-Maharani had only a life interest, and that on her death it should pass to her husband's heirs, rather than hers. The fictitious adoption with the object of manufacturing the nearest relationship has been

examined at length before, and the fabrication of a false pedigree with an amazing unscrupulousness and disregard of truth has already been exposed *ad nauseam*. The Genealogical table which has been put in evidence, it is enough to say, utterly fails to prove that the Maharaj Rana Bhawani Singh is the next-of-kin of the late Ex-Maharaj Rana Zalim Singh. It does not at all strengthen the Jhalawar case by questioning the character of the 'Benares property' or the interest which the Ex-Maharani had in it. The Maharaj Rana Bhawani Singh must prove that before he can be reversioner, he is next-of-kin to the late Ex-Maharaj Rana Zalim Singh. The onus of proof is clearly on him, and he has so miserably failed to discharge it. A pedigree on the face of it so preposterous and absurd, should not have been, to say the least of it, filed in evidence.

19. Conclusion.

Conclusion

The irresistible conclusion, it is submitted, is that the whole property left by the Ex-Maharani was her personal property, over which she had absolute control. All of it was her 'Stridhan properly so called,' and the Jhalawar Darbar's claim is not maintainable either according to law or usage. The Maharajah of Kishangarh being the sole legatee under the Will of the late Ex-Maharani Rathorji, is alone entitled to take the whole property left by that Will in his favour by her.

INDEX TO ANNEXURES.

No. of Annexure.	Subject.	Pages.
1	Kishangarh Darbar's letter No. 285-C., dated the 21st September, 1923, to the Resident, Jaipur, forwarding jewellery list	I-X
2	Kishangarh Darbar's letter No. 66-C., dated the 17th June, 1922, to the Resident, Jaipur, making brief remarks on Jhalawar claim ...	XI-XIII
3	Copy of Will, dated the 21st December, 1918	XIV-XV
4	Jhalawar Darbar's letter No. 270, dated the 28th February, 1919, to the Political Agent Kotah and Jhalawar forwarding their grounds of claim ...	XVI-XXIV
5	Jhalawar Darbar's letter No. 494, dated the 2nd November, 1907, regarding Jhalawar State jewels in possession of the Ex-Maharani Rathorji	XXV
6	Extract from Aitchison's Treaties, Engagements and Sanads, etc., Volume III, Edition 4th, Page 364 ...	XXVI-XXVII
7	Jhalawar State Papers, Part III, Page 10.	XXVIII-XXIX
8	Jhalawar State Papers, Part II, Page 5	XXX-XXXIII
9	List of the late Ex-Maharani Rathorji's benefactions and charities, etc. ...	XXXIV
10	Jhalawar Darbar's letter No. 1381, dated the 15th September, 1922, to the Secretary to the Agent to the Governor-General asking for the inventory of the property left by the Ex-Maharani Rathorji ...	XXXV
11	Letter from the Imperial Bank of India, Ajmer, to the Kishangarh Darbar, bearing No. 3193, dated the 14th August, 1923, regarding the Ex-Maharani's Government Promissory Notes	XXXVI
12	Jhalawar Darbar's letter No. 1395, dated the 27th December, 1918, to the Political Agent Kotah and Jhalawar as a reminder ...	XXXVII
13	Jhalawar Darbar's letter No. 11, dated the 5th January, 1919, to the Kishangarh Darbar asking for the list of the property left by the Ex-Maharani Rathorji ...	XXXVIII

INDEX TO ANNEXURES.

No. Annexure.	Subject.	Pages.
14	Kishangarh Darbar's letter No. 20-M., dated the 14th January, 1919, in reply to the Jhalawar Darbar's letter No. 11, dated the 5th January, 1919... . . .	XXXIX
15	Extract from the Imperial Gazetteer of India— Provincial series—Rajputana, Edition 1908, Page 388 . . .	XL-XLI
16	Award of Sir Elliot Colvin, dated the 20th March, 1914	XLII-XLV
17	Extract from Aitchison's Treaties Engagements and Sanads, etc., Volume III, Edition 4th, Pages 402 and 403...	XLVI
18	Translation of Kharita from Colonel Berkeley the Political Agent, Kotah, to the Ex-Maharani Rathorji, No. nil, dated the 3rd December, 1900, regarding Maharani Guheliji's property . . .	XLVII
19	Copy of telegram, dated the 13th September, 1900, from Rajaram Jhalrapatan to Dewan Kishangarh, regarding Maharani Guheliji's property . . .	XLVIII
20	Telegram, dated the 10th November, 1900, from Rajaram Jhalrapatan to Dewan Kishangarh informing that Bhawanishinghji and Dewanji trespassed Baisaheba's Deodhi and broke open Guheliji's locks	XLIX
21	Extract from the Chiefs and Leading Families in Rajputana, Edition 2nd 1903, Page 74	L
22	Deed of Gift from the Ex-Maharaj Rana Zalim Singh, dated the 10th January, 1896	LI-LII
23	Translation of an Extract from "Waqaya Rajputana" in Urdu Volume III, Page 356, Edition 1879	LIII
24	Telegram, dated the 24th August, 1912, from Benares, to Maharaj Raghunathsinghji, Kishangarh, regarding Ex-Maharaj Rana's desire to send for the Ex-Maharani Saheba . . .	LIV
25	Translation of an extract from a letter of a confidential servant on the staff of the Ex-Maharaj Rana at Benares to a trusted maid servant of the Ex-Maharani Rathorji at Kishangarh conveying Ex-Maharaj Rana's message	LV

INDEX TO ANNEXURES.

iii

No. Annexure.	Subject.	Pages.
26	Extract from reported case, Vijay-rangam Et. al Vs. Lakshman—Et. al Versus Lakshman & Bombay H.C.R.-244—263.O.C.J. are opposed on the question under discussion	LVI-LVII
27	Statement showing the names and income of the Jagir villages of Her Highness the late Ex-Maharani Rathorji of Jhalawar before and after the deposition of the Maharaj Rana Saheb	LVIII
28	Nine genealogical tables prepared from different authoritative books	LIX
29	List of State jewels given to Maharani Rathorji as alleged by Jhalawar Darbar in their list	LX-LXI
30	Copy of Demi-Official letter No. 252, dated the 5th November, 1925, from Dewan Bahadur K. L. Paonasker, C.I.E., M.A., Chief Member of Council, Kishangarh, to Major D. M. Field, I.A., Resident at Jaipur, regarding attestation of documents ...	LXII

ANNEXURE NO. 1.

Pages I-X.

ANNEXURE No. 1.

Copy of confidential D. O. letter No. 285/C dated the 21st September, 1923, from Rao Bahadur Thakur Roop Singh Powar, B. A. Officiating Chief Member of Council, Kishangarh, to Colonel S. B. Patterson, C.I.E., I.A., Resident at Jaipur, Jaipur.

Please refer to the correspondence ending with your D. O. letter No. 3752 dated the 3rd August, 1923.

I am enclosing, herewith, a copy of the inventory of the property left by the late Ex.-Maharani Rathorji of Jhalawar.

II

LIST OF THE JEWELLERY ETC. LEFT BY THE LATE EX.-
MAHARANI RATHORJI OF JHALAWAR.

Gold ornaments set with gems.

				Gross Weight			Approximate value.	
				Tolas.	Mashas.	Rattis.		
1.	Timnia (necklace) set with diamonds and pearls	1	43	9	0	Rs. 6,000
2.	Do. Do. Do.	...	1	20	7	0	3,000	
3.	Do. Do. Do.	...	1	33	4	0	5,500	
4.	Rakhri enamelled and set with diamonds and a border of pearls	1	1	2		1	700	
5.	Nath (nose-ring) of pearls having a peacock set with diamonds	1	3	2		4½	8,000	
6.	Champkali (necklace) set with diamonds, emeralds and pearls	1	16	6		3	20,000	
7.	Finger ring set with rubies and pearls	1	0	5		3	50	
8.	Mala (necklace) set with diamonds	1	6	9		0	500	
9.	Hans (necklace) enamelled and set with diamonds	1	57	3		0	3,000	
10.	Bangris (bracelets) enamelled and set with diamonds	2	22	6		0	2,000	
11.	Do. Do. Do.	2	18	7		3	2,000	
12.	Madlia set with diamonds	2	37	9		0	2,500	
13.	Kangan (bracelets) enamelled and set with diamonds rubies and pearls	2	17	7		3	1,500	
14.	Kanthi (necklace) of three strings of pearls with three Thekaras set with rubies	1	8	8		0	1,100	
15.	Bena (head ornament) set with ordinary glass	1	0	11		4½	100	
16.	Pair of Jhela (head ornament) of pearls set with diamonds	1	11	8		3	25,000	
17.	Necklace (Thussi) set with rubies emeralds and pearls	1	.14	11		0	400	
18.	Pipalpattas (pendants) set with pearls	6	3	7		0	1,300	
19.	Baju enamelled and set with diamonds	1	30	1		3	4,500	
20.	Lumki set with diamonds	2	10	7		3	600	
21.	Jhuntra (pendant) set with pearls	2	7	2		0	900	
22.	Gajra (bracelets) of pearls	2	8	6		0	150	
23.	Payzeb (anklets)	2	47	9		0	500	
24.	Hathphul set with rubies and emeralds	2	13	1		0	600	
25.	Pipalpattas (pendants) enamelled and with pendants of pearls	6	7	1		3	600	
26.	Karanphul of pearls having pendants set with diamonds	2	7	6		0	350	
27.	Ponchi (bracelets) set with Navratan	2	9	0		0	200	
28.	Totian (ear ornaments) Kathiawari, set with rubies, emeralds, diamonds and pearls	2	24	0		3	400	

III

			Gross Weight Tolas.	Mashas.	Rattis.	Approximate value. Rs.
29.	Bazu set with turmalas	...	2	21	2	0
30.	Ponchi (bracelet) set with diamonds, emeralds and rubies	...	2	15	8	0
31.	Churi (bracelets) set with diamonds emeralds and rubies	...	2	7	0	0
32.	Madlia	...	2	16	0	0
33.	Kanthi (necklace) with four strings of pearls and seven thekaras	...	1	2	10	0
34.	Har (necklace) of five strings with eighteen thekaras and one urvasi set with glass	...	1	14	6	0
35.	Gutian (ear ornament) of pearls	...	2	9	2	0
36.	Ad (forehead ornament) set with ordinary glass having five thekaras and five pendant pearls	...	1	2	4	0
37.	Silver Ponchi (bracelet) interwoven with pearls	...	2	2	11	0
38.	Mundra (Thumb ring) enamelled and set with diamond	...	1	1	4	0
39.	Pendant of Baju with golden chain inlaid with diamonds	...	1	3	3	3
40.	Churi (bracelet) of silver set with pearls	...	4	3	11	0
41.	Pati Jhuntra with peacock of ordinary glass and strings of pearls	...	2	4	7	3
42.	Bhujband set with rubies, emeralds diamonds and pearls	...	2	14	7	3
43.	Bhujband with a photo of Jhalaji and set with topaz	...	1	4	9	0
44.	Kathsari (necklace) with nine thekaras	...	1	5	2	3
45.	Jhumra (pendant) enamelled and set with diamonds	...	2	2	11	0
46.	Lumki of Baju enamelled and set with diamonds	...	4	10	4	3
47.	Pair of Jhela (ear ornament) interwoven with pearls and set with diamonds	...	1	2	4	0
48.	Pair of Jhela (ear ornament) interwoven with pearls	...	1	1	2	0
49.	Bena (head ornament) set with rubies, emeralds and pearls	...	1	1	7	0
50.	Pair of Jhela (ear ornament) set with diamonds and with pearl string	...	1	1	3	3
51.	Mundra (thumb ring)	...	1	1	0	0
52.	Lung (nose ring) set with diamond and pearls	...	1	0	7	0
53.	Totian (ear ornament) set with diamonds emeralds and bordered with pearls	...	2	0	11	0
54.	Lung set with ruby and pearls	...	1	2	5	0
55.	Totian set with ordinary glass	...	2	0	11	0

IV

			Gross Weight Tolas.	Mashas.	Rattis.	Approximate value. Rs.
56.	Finger ring set with emerald	...	1	2	1	0
57.	" " " diamond	...	1	0	7	0
58.	Pipalpattas (Kathiawari) set with rubies, emeralds and having pendant of pearls	...	6	13	7	0
59.	Pair of Jhela (Kathiawari) set with ordinary glass	...	2	7	9	0
60.	Balo (ear ring) set with diamonds and with pendant of pearls	...	1	2	9	0
61.	Do. Do. Do.	...	1	3	1	0
62.	Machhiyan (fish) ornaments for ear set with diamonds and pearls.	2	2	2	3	55
63.	Pattian set with diamonds	...	34	1	4	0
64.	Finger ring set with ordinary glass.	1	0	6	1½	20
65.	Finger ring set with emeralds and rubies	...	1	0	5	3
66.	Finger ring set with topaz	...	1	0	8	0
67.	Finger ring set with Navratan	...	1	0	6	3
68.	Finger ring set with five sapphires	1	0	4	0	55
69.	Finger ring set with topaz	...	1	0	7	4½
70.	Finger ring set with topaz	...	1	0	4	1½
71.	Finger ring set with diamond	...	1	0	3	3
72.	Finger ring set with ruby and pearls	...	1	0	5	0
73.	Finger ring (Darshani)	...	1	0	4	0
74.	Finger ring set with topaz	...	1	0	5	0
75.	Finger ring set with ordinary glass	1	0	6	3	13
76.	Finger ring set with diamonds and rubies	...	1	0	3	3
77.	Finger ring set with diamonds and rubies	...	1	0	5	0
78.	Lung (for ears) set with rubies, emeralds and pearls	...	2	0	4	0
79.	Lung (for nose) set with English cut diamond	...	2	0	2	0
80.	Earrings enamelled and set with diamonds and pearls	...	6	3	7	3
81.	Small Thekaras and pattis of Bindu set with diamonds	...	50	2	1	4½
82.	Thekaras of Urvasi inlaid with glass	6	3	4	0	40
83.	Thekaras of Kanthi enamelled	...	10	1	9	0
84.	Lung (nose ring) set with diamonds	...	1	0	1	2
85.	Broken thekaras of pendant enamelled and set with pearls	...	10	1	0	3
86.	Rawa (for teeth) set with ordinary glass	...	0	0	1	5
87.	Finger ring set with glass...	...	1	0	3	4
88.	Uperkanya of pearls having thekara pendant set with diamond...	1	0	6	0	500
89.	Earrings (one ring set with glass and the other with pearls)	...	2	0	3	0
						30

				Gross Weight		Approximate value.	
				Tolas.	Mashas.	Rattis.	Rs.
90.	Broken Rakhis	...	...	3	0	6	1½
91.	Chand and Rakhi set with glass	...	2	0	2	1½	8
92.	Broken button of Ponch interwoven with pearls	...	1	0	0	3	10
93.	Gilt silver case	...	1	4	6	0	5
94.	Earrings of pearls	...	11	1	3	0	75
95.	Big and small pearls and Chidan...	0	2	7	0	200	
96.	Pieces of ruby	...	15	0	4	1	150
97.	Pearls (big)	...	4	0	4	4½	2,500
98.	Do. (small)	...	3	0	1	3	1,500
99.	Do. Do.	...	8	0	2	½	300
100.	Do. Do.	...	38	0	5	1½	150
101.	Small Mukat for Thakurji set with glass and a border of pearls	...	1	0	1	4	30
102.	Big and small pearls of inferior quality	...	0	1	0	3	40
103.	Diamond piece	...	1	0	0	2	200
104.	Pieces of diamond as small as sennatum seed	...	2	0	0	0	10
105.	Small piece of emerald and a piece of garnet	...	2	0	0	0	15
106.	Piece of Lalri	...	1	0	0	5½	1
107.	Kanthi of Tulsi beads with pearls.	1	1	8	0	60	
108.	Earrings set with ordinary glass and pearls	...	2	2	7	5	40
109.	Lung (for nose) set with glass and border of small pearls, some of which have no pearls on border...	4	0	5	3	15	
110.	Lung (for nose) set with a small diamond	...	1	0	1	0	25
111.	Gold Patti with pearls	...	2	0	1	0	8
Total			709	3	3	1,28,637	

Gold ornaments.

Gross weight
Tolas. Mashas. Rattis.

1.	Bazu	...	...	...	...	1	28	1	0
2.	Ramjhol (anklet)	...	..	...	...	2	89	6	0
3.	Choki and Madlia with two strings	...	...	...	...	12	11	0	
4.	Kara (bracelets)	...	...	...	...	2	34	0	0
5.	Pipalpattas	...	...	...	...	6	10	1	3
6.	Kanthal (necklace)	...	...	...	...	1	14	6	0
7.	Ponchi	...	...	...	...	3	22	9	0
8.	Timnia (necklace)	...	...	...	...	1	60	6	0
9.	Gujri	...	...	...	...	2	12	0	0
10.	Dal	...	...	...	...	2	11	6	0
11.	Bazu	...	...	...	...	2	33	6	0
12.	Finger rings	...	...	...	...	27	7	3	0
13.	Madia	...	...	...	...	1	10	6	0
14.	Karla (anklets)	...	...	...	...	2	70	0	0

Gross weight
Tolas. Mashas. Rattis.

15.	Nevari	...	...	...	...	2	47	9	0
16.	Bor	...	...	...	...	2	2	8	3
17.	Timnia	...	...	...	...	1	33	0	0
18.	Kanthla	...	...	...	...	1	18	3	3
19.	Jhuntna pair	...	...	...	...	1	6	5	0
20.	Bindi (Kathiawari)	...	...	...	...	1	5	7	3
21.	Dal	...	...	...	...	2	8	11	0
22.	Timnia	...	...	...	...	1	25	6	0
23.	Bnzu	...	...	...	...	1	14	2	0
24.	Jhuntna	...	...	...	...	3	12	6	0
25.	Thussi (necklace) with pearls on border	...	...	...	...	1	15	3	0
26.	Ponchi	...	...	...	...	2	7	5	0
27.	Karla (anklets)	...	...	...	...	2	59	3	0
28.	Nevri (anklets)	...	...	...	...	2	37	1	3
29.	Tanka (anklets)	...	...	...	...	2	25	10	0
30.	Kara	...	...	...	...	2	35	4	3
31.	Kara (Kathiawari)	...	...	...	...	2	109	0	0
32.	Langar	...	...	...	...	2	151	9	0
33.	Ponchi	...	...	...	...	2	8	2	0
34.	Satan	...	...	...	...	2	8	11	0
35.	Bangri	...	...	...	...	2	21	6	0
36.	Kara (for hands)	...	...	...	...	2	7	6	0
37.	Bangri	...	...	...	...	1	7	5	0
38.	Do.	...	...	...	...	1	5	11	0
39.	Do.	...	...	...	...	1	5	4	3
40.	Churi (bracelet)	...	...	...	...	6	6	11	0
41.	Do.	Do.	...	...	...	8	9	1	3
42.	Do.	Do.	...	...	...	2	5	0	0
43.	Buttons with chain	...	...	...	...	9	6	2	3
44.	Ponchi	...	...	...	...	1	4	0	0
45.	Anguthi Golia	...	...	...	...	10	20	3	0
46.	Tetian	...	...	...	...	4	2	6	3
47.	Kanthlo containing photos	...	...	...	...	1	10	9	0
48.	Kanthlo	...	...	...	...	1	5	10	0
49.	Finger rings	...	...	...	...	7	2	10	0
50.	Timnia	...	...	...	...	1	13	9	0
51.	Chitra (photo)	...	...	...	...	2	2	7	0
52.	Patri	...	...	...	...	1	2	6	4½
53.	Churi (bracelet)	...	...	...	...	1	7	0	0
54.	Patia	...	...	...	...	1	10	3	0
55.	Bar of gold	...	...	...	...	1	39	10	3
56.	Do.	...	...	...	...	1	26	8	0
57.	Khunkhunia (toy)	...	...	...	...	2	10	9	0
58.	Tabrakh (pouch coated with gold)	...	...	...	...	1	9	9	0
59.	Kara (Gujrati) of copper gilded with gold	...	...	...	...	1	6	1	3
60.	Hansli	...	...	...	...	1	4	5	3
61.	Hansli	...	...	...	...	1	3	4	0
62.	Kara of copper with coating of gold	...	...	...	...	2	6	10	0

Gross weight
Tolas. Mashas. Rattis.

63.	Kara of lead with coating of gold ...	...	2	11	2	0
64.	Bhujband ...	...	1	5	4	0
65.	Kangan with gold beads and Moonga	...	2	6	3	0
66.	Do. Do, & pearls		2	4	8	0
67.	Timnia ...	...	1	13	7	0
68.	Bajarbatti (necklace)	...	2	3	1	3
69.	Kanthla ...	...	1	6	9	0
70.	Choki ...	...	2	1	7	0
71.	Wooden toy consisting of two small balls with net work of gold ...	...	1	0	8	0
72.	Pin having a photo attached to it	...	1	1	0	3
73.	Lung (for nose) ...	..	2	0	3	3
74.	Chhari coated with gold ...	...	1	0	0	0
75.	Kanthla ...	...	1	9	6	0
76.	Broken pieces of ornaments	...	0	3	7	3
77.	Kanthla (for pony) ...	...	1	50	0	0
78.	Kanthi of Tulsi beads threaded with gold wire	1	2	3	3	
79.	Eor (1) and thumb rings (3)	...	4	3	0	3
80.	Mohur (of Mogul period)...	...	1	1	1	0
81.	Copper Topsi with pipe coated with gold	1	1	0	4½	
82.	Gold wire, rings and kurki etc.	...	0	3	7	4½
83.	Sarpech ...	...	1	5	3	3
84.	Mundra (thumb ring)	...	1	2	1	3
Total ...				1451	3	4½

Silver ornaments.

Gross weight
Tolas. Mashas. Rattis.

1.	Anklets (a set of Jor)	...	...	20	156	6	0
2.	Langar ...	...	...	2	85	0	0
3.	Gajra ...	...	...	6	106	0	0
4.	Ramjhol ...	...	...	2	88	0	0
5.	Do. ...	...	...	2	69	0	0
6.	Do. ...	...	...	2	60	0	0
7.	Chhara ...	...	...	2	53	3	0
8.	Do. ...	...	...	2	48	0	0
9.	Do. ...	...	...	2	68	0	0
10.	Do. ...	...	...	2	58	0	0
11.	Do. ...	...	...	2	37	6	0
12.	Anvala ...	...	...	2	55	0	0
13.	Nevvari ...	...	...	2	18	6	0
14.	Do. ...	...	...	2	26	0	0
15.	Kara ...	...	...	2	28	0	0
16.	Do. ...	...	...	2	30	6	0
17.	Nevari ...	...	...	8	81	3	0
18.	Dal-	...	...	8	94	0	0
19.	Karla ...	...	...	2	77	6	0

VIII

Gross weight.
Tolas. Mashas. Rattis.

20. Bangri	...	...	...	...	...	10	97	0	0
21. Bazu	...	...	...	...	...	5	88	0	0
22. Satan	...	...	...	...	...	2	47	6	0
23. Chhara	...	...	...	...	...	2	42	0	0
24. Tanaka	..	...	...	...	...	2	25	6	0
25. Gajra	...	...	...	...	...	2	30	9	0
26. Sankla	...	...	...	...	...	2	36	0	0
27. Chhara	...	...	...	...	...	2	21	6	0
28. Bichhurian pair	...	...	...	...	...	1	30	0	0
29. Gujri	...	...	...	...	...	1	7	9	0
30. Lumki pair (for Bazu)	...	...	...	...	...	1	20	0	0
31. Chhara	...	...	...	...	...	2	19	0	0
32. Jibhi	...	...	...	...	...	2	7	3	0
33. Madlia	...	...	...	...	...	2	39	0	0
34. Churi	...	...	...	...	...	5	8	9	0
35. Madlia	...	...	...	...	...	2	14	9	0
36. Gutian (2), Bindi (1) and Jhuntna Pair (1)						4	34	0	0
37. Lumki	...	...	...	...	...	4	24	6	0
38. Bichhurian (6) and Anguthian (4)						10	16	0	0
39. Pagpan	...	...	...	...	...	2	11	6	0
40. Anguthian and Golia	...	...	...	...	...	15	12	3	0
41. Pouchi (2) and Chhara (2)						4	29	6	0
42. Kanthla	...	...	...	...	...	1	37	0	0
43. Langar	...	...	...	...	...	2	83	0	0
44. Nevari (2) and Ponchi (2)						4	42	0	0
45. Pieces of broken ornaments for pony						0	68	0	0
46. Pieces of broken ornaments						0	191	9	0
47. Phul	...	...	...	...	...	0	15	0	0
48. British coins (4) and other coins (4)						8	0	0	0
49. Nevari (Hiranami)	...	...	...	...	...	2	58	0	0
50. Langar	...	...	...	...	...	2	57	0	0
51. Bazu	...	...	...	...	...	1	20	0	0
52. Gajri	...	...	...	...	...	1	16	0	0
53. Finger ring	...	...	...	...	...	1	1	0	0
					Total	...	2491	3	0

Silver utensils.

Gross weight
Tolas. Mashas. Rattis.

1. Lotha	...	...	...	...	...	2	147	6	0
2. Degachi	...	...	...	...	...	3	450	3	0
3. Sarwa	...	...	...	...	...	2	287	6	0
4. Jharjhari	...	...	...	...	...	2	153	0	0
5. Bhabhkha (for distilling purposes)						1	110	0	0
6. Gaddi	...	...	..	...	...	6	122	9	0
7. Pandan	...	...	...	...	...	3	191	0	0

IX

						Gross weight	Tolas.	Mashas.	Rattis.
8.	Tasla	...	...	...	...	2	79	9	0
9.	Gilas (tumbler)	...	...	...	...	8	184	0	0
10.	Kalamdan	...	...	...	...	1	50	6	0
11.	Tiki	...	...	...	...	1	83	6	0
12.	Rakebi	...	...	...	...	1	70	0	0
13.	Tasli	...	...	...	...	8	176	9	0
14.	Picharka (Syringe)	...	...	...	...	1	65	6	0
15.	Balls (8) and mangoes of silver	8	toys	...	...	16	151	0	0
16.	Ghara	...	...	...	...	5	1726	0	0
17.	Thal	...	...	...	...	3	865	0	0
18.	Iksanko (candle-stick)	...	...	...	...	1	217	0	0
19.	Looking glass	...	...	...	...	2	301	9	0
20.	Inkstand	...	...	...	...	1	70	0	0
21.	Gulabpas	...	...	...	...	1	24	0	0
22.	Itradan	...	...	...	...	4	60	3	0
23.	Piala (cups)	...	...	...	...	3	25	9	0
24.	Rupeta	...	...	...	...	24	471	3	0
25.	Katori	...	...	...	...	24	287	6	0
26.	Batki	...	...	...	...	3	14	0	0
27.	Tuti	...	...	...	...	1	6	6	0
28.	Dhakna	...	...	...	...	3	57	3	0
29.	Pandani	...	...	...	...	3	68	6	0
30.	Panchpatra...	...	...	...	...	1	36	6	0
31.	Pyali	...	...	...	...	2	6	3	0
32.	Silver boxes	...	...	...	...	4	12	6	0
33.	Gotko (water bottle)	...	...	...	...	1	22	9	0
34.	Kurchhi (spoons)	...	...	...	...	2	17	9	0
35.	Bottle	...	...	...	...	1	2	3	0
36.	Argha	...	...	...	...	1	4	9	0
37.	Lock	...	...	...	...	1	2	0	0
38.	Tongs	...	...	...	...	1	7	0	0
39.	Dandi	...	...	...	...	2	23	9	0
40.	Jibhi	...	...	...	...	1	1	0	0
41.	Tilak	...	...	...	...	1	2	9	0
42.	Seal	...	...	...	...	1	7	0	0
43.	Hukka pipe	...	...	...	...	1	7	0	0
44.	Spoons	...	...	...	...	2	7	0	0
45.	Jali	...	...	...	...	6	27	6	0
46.	Cocoanut	...	...	...	...	1	28	6	0
47.	Spoons (3), horse (1), Boxes (2), phial (1), gaddi (1) and broken pieces	...	...	...	...	0	34	0	0
	Total	...				6768	0	0	

Miscellaneous articles..

1. Golden watches with gold chains weighing 6 tolas 2
2. Peshkabz with gold handles and scabbard ... 1 57-0-0 (weight).
3. Chhuri (knife) with iron handle 1
4. Telescopes 2

X

5. Wrist watch with golden case	...	...	...	...	...	...	1
6. Picture frame of silver	...	...	...	1	63-6-0	(weight)	
7. Silver watches	...	...	...	...	...	...	3
8. Silver Morchhal pair	...	...	...	...	...	...	1
9. Silver dandis of Chanwar	...	...	...	...	...	...	2
10. Silver chhari	...	...	...	..	...	...	1
11. Silver Dandi of a Khijur Pinchhi	...	...	...	...	...	...	1
12. Silver Dandis of three big fans	...	...	...	...	...	...	3
13. Silver Dandis of fans	...	...	...	...	...	...	4
14. Copper Jharjhari	...	...	...	...	...	...	1
				Total	...	24	

(Sd). ROOP SINGH POWAR,
Offg. Chief Member of Council Kishangarh.

ANNEXURE NO. 2.

Pages XI-XIII.



ANNEXURE No. 2.

Copy of confidential D. O. Letter No. 66/C dated the 17th June, 1922, from Dewan Bahadur K. L. Paonasker C. I. E., M. A., Chief Member of Council, Kishangarh, to Colonel S. B. Patterson C. I. E., I. A. Resident at Jaipur, Mount Abu.

With reference to the correspondence ending with Colonel Benn's D. O. letter No. 374/E-212 dated the 23rd January, 1922, and subsequent Residency reminder No. 55/C dated the 31st May, 1922, regarding the property bequeathed by the late Ex-Maharani Rathorji of Jhalawar, I am desired to say as follows, for the information of the Hon'ble the Agent to the Governor-General:—

The property which the late Ex-Maharani owned at the time of her death consisted of:—

- I. Lands and Jagir villages in Kotah and Jhalawar States,
- II. Cash, jewellery and sundry articles of household use, and
- III. Government Promissory Notes.

On her death, the villages and lands have lapsed to the respective States, the jewellery and cash etc. which were found in her apartments were removed to the Kishangarh State Treasury, and are in safe custody there, exactly in the same state as they were at the time of removal, and the Government Promissory Notes of the value of Rs. 1,53,700 remain in the safe custody of the Alliance Bank of Simla, Ajmer, and the interest which has hitherto accumulated thereon since her death, is in the nature of a fixed deposit with the same Bank.

This disposes of the question of the safe custody of the property, regarding which anxiety was first expressed by the Foreign Member Jhalawar State Council, (*vide* copy of D. O. letter No. 1395 dated the 27th December, 1918, enclosure to the Jaipur Residency endorsement No. 335 dated the 18th January, 1919), and about which an assurance has been so often demanded by Colonel Benn in his D. O. letters on the subject.

Regarding the Jhalawar claim to inherit the property of the late Ex-Maharani, I have to invite your attention to the enclosures to my D. O. letter No. 8/C dated the 24th January, 1919, and particularly to para 3 of my reply to the Jhalawar Foreign Member's letter included in those enclosures.

That the whole property excepting the Jagir villages, was her personal property over which she had an absolute right of disposal seems to have been at first recognised even by the Jhalawar Darbar, as can be inferred from the 3rd para of the Foreign Member Jhalawar's D. O. letter to the Political Agent Kotah, a copy of which was forwarded to this office under Residency endorsement No. 335 dated the 18th January, 1919. Therein it is stated "as she dies intestate His Highness (Jhalawar) is according to the custom of Rajputana entitled to inherit her property as the only heir thereto." Evidently, the Jhalawar Darbar then understood their case properly. They relied on "custom" and not on Law, and they evidently based their claim on intestacy. They admitted by this statement, that the lady being the absolute owner could make a testamentary disposition, and also that if it was true that she had left a will, Jhalawar would have no case whatever.

D

The next para of the enclosure just mentioned above also shows that the Jhalawar Darbar were not sure about their claim to the other property, and would confine the dispute to the so-called 'State jewels'. There is no doubt that the lady possessed jewellery which she must have got, on the occasion of her marriage and afterwards, as presents from the State and her husband; it may also be that she may have received on loan some articles from the Toshakbana while she was yet the wife of the Ruler of the State, as it existed before its reconstitution into a Chiefship. Similarly the late Ex-Maharaj Rana must have had in his possession articles returnable to the State Toshakhana after his death had he died with the status of a ruler. In the opinion of Dr. Sapru, whose advice the Jhalawar Darbar have obtained, the late Ex-Maharaj Rana became a private individual after his deposition (*vide* Jhalawar memorandum enclosed with Residency No. 770 dated 13th February, 1920). Naturally, therefore, all the property which the Ex-Maharani had with her after the same event was held by her as the wife of a private individual, and not as the Maji Sahiba, that is, the real or adoptive mother of the present Raj Rana: the line of the founder of the State having become extinct on the deposition of the Maharaj Rana Zalimsingh II (*vide* Aitchison Treaties and Sanads Page 402 Vol. III Edition 1909). It ceased to have from that date any of the elements of State property, the custom regarding 'State jewels' could no longer apply to it. Even supposing certain articles were allowed to remain with the Lady on the understanding that they were for her use during her life, early steps ought to have been taken to prove what jewels were on temporary loan with her, and were such, as she could not convert to her own use or dispose of as she pleased. Whatever restraint may have remained on her liberty of action during the Ex-Maharaj Rana's life time, she became absolute owner of the property both hers and her husband's after the latter's death. No exception can be taken to the remark in the award of Sir Elliot Colvin regarding the State jewels, but before it can be of advantage to the Jhalawar Darbar, they have to prove it as a question of fact that such-and-such property was in the possession of the late Ex-Maharani, to which that description could apply. The instances of the Ex-Maharani Maji Guheliji Sahiba and Maji Jaisalmeriji Sahiba cited in the Jhalawar Memorandum referred to above do not affect the case of the Ex-Maharani Rathorji; because wheresoever, those ladies waived or relinquished their right, the latter took an independent line of action, to which no legal or political objection could be taken, and which was to assert and claim her natural rights. That the Ex-Maharaj Rana did not claim the property of the Ex-Maharani Guheliji when she died during his life time, is hardly a serious argument; for in what state of mind he was after his deposition is a fact too well known to need comment.

The truth of the matter is that the property of the late Ex-Maharani Rathorji was brought into existence by the same Act of the Imperial Government which created the reconstituted Chiefship of Jhalawar, and cannot be dealt with in the manner of the property left by an ordinary Hindu widow with limited rights. The villages in Kotah territory which belonged to the late Ex-Maharani were not part of the Jhalawar Jagir, and neither according to custom, nor according to Law, could they lapse on her death to the New Chiefship. If as Dr. Sapru maintains, the present Raj Rana is the nearest heir, and is entitled to inherit her property, he might as well have claimed the Ex-Maharani's villages in the Kotah State.

XIII

The above considerations clearly show that the incidents of the property to which claim has been advanced by the Jhalawar Darbar are of an exceptional nature, and the case is more political than legal.

On the part of the Kishangarh Darbar it is contended that the movable property of the Ex-Maharani was personal, and she had an absolute right to dispose of it, as she pleased. If she had not made her wishes broadly known during her life time, and had not further, confirmed them by a testamentary disposition, the Jhalawar Darbar might have claimed the State jewels, and His Highness the Raj Rana the rest of the property, whatever, it was.



ANNEXURE NO. 3.

Pages XIV—XV.



॥ श्री नाथजी ॥

ENCLOSURE No. 3,

नकल (Copy of Will)

श्री श्री चन्द्राजीसा

मारै अवार तकलीफ घणो है—अर मारा शरीर को भरोसो नहीं है—ई वास्तै जोते जो मारा होश हवास में आ लिख जाऊँ हँ कि जो कुछ मारै कनै है—रूपया पैसा गहना गांठा बगैरा सब मालियत मैं भाई थानै राजी खुशी सूं दियो है और मारा सारा नोकर चाकरां की थानै शरम है—सम्बत १९७५ का सितो पोस बदि ४

(Sd.) Umaid Singh.

$21\frac{12}{18}$

(Sd.) द: कृष्ण कवर जी

महारानो राठोड़ जी

(Sd). Ranjit Singh.

$21\frac{12}{18}$

(Sd) H. Singh

21-12-18.

(Sd.) M. L. Bhargava.

$21\frac{12}{18}$

(Sd.) حکیم سعادت علی
۲۱ دسمبر سنہ ۱۹۱۸ع

(Sd.) दा: रा: असरसिंह

(Sd.) حکیم میر عبدالحکیم علی^ر
۲۱ دسمبر سنہ ۱۹۱۸ع

Translation of the last will and testament of the Late Ex-Maharani Rathorji Sahiba of Jhalawar, dated the 21st of December, 1918.

MY BELOVED NEPHEW (Shree Chandaji Sa).

My present trouble (illness) is great (serious), and I am not sure if I (my body) will ever get well (and I fear I may not live long). I therefore, while yet alive and in full possession of my senses, leave it in writing that whatever I possess, cash, and jewellery, ornaments, etc., in fact all my property, oh my dear, I give you of my pleasure (free will and accord), and I leave all my servants and dependants to your care (I leave it to your honour to provide for them).

Paus Badi 4th, Samvat 1975 (21st December, 1918.)

(Sd.) UMAID SINGH,
21st December 1918.

(Sd.) KRISHNA KUNWARJI,
Maharani Rathorji, Jhalawar.
(in Hindi character).

(Sd.) RANJIT SINGH,
21st December 1918.

(Sd.) H. SINGH,
21st December 1918.

(Sd.) M. L. BHARGAVA,
21st December 1918.

(Sd.) HAKEEM SAĀDAT ALI,
21st December 1918.
(in Persian character).

(Sd.) RAJWIN AMAR SINGH,
(in Hindi character).

(Sd.) HAKEEM MIR ABBAS ALI,
21st December 1918.
(in Persian character).

ANNEXURE NO. 4.

Pages XVI—XXIV.

F



(ANNEXURE No. 4.)

Copy of a letter from the Foreign Member, Jhalawar State Council, to the Political Agent, Kotah and Jhalawar, No. 270, dated the 28th February, 1919.

Referring to my confidential demi-Official letter No. 1395 dated the 27th December, 1918, I have the honour to enclose herewith a list of the State Jewels that were given from time to time to the Ex-Maharani Maji Rathorji Sahiba for her use only, and to request the favour of your kindly arranging the restoration of the Jewels to the State.

2. Besides the Jewels, the Ex-Maharani Sahiba, who was a childless widow, has left a personal property of considerable value. His Highness, being the nearest agnate heir to her late husband and the head of the Ruling Family to which she belonged has got a clear and indisputable title to inherit the property of the deceased. It is, therefore, requested that you will be so good as to arrange an inventory of the property and the due delivery of possession to His Highness.

3. To give you an idea of the cash property which the late Ex-Maharani Sahiba possessed, as the consort and heir to the late Ex-Maharaj Rūna Zalim Singhji, I invite a reference to the following :—

(i) Letter No. 370 of the 19th June, 1913, from the Dewan of Jhalawar to the Political Agent, Kotah and Jhalawar, in which it is stated that a sum of four Lakhhs of Rupees had been left in charge of the late Ex-Maharani Rathorji Sahiba by the late Ex-Chief.

(ii) Letter No. 351/viii-1 of the 24th April, 1914, from the Agent to His Honour the Lieut: Governor for Benares (copy enclosed with my previous demi-official letter) in which the cash property inherited by the late Ex-Maharani Sahiba from the Ex-Chief is stated as :—

Government promissory Note worth Rupees	1,71,700/-		
Cash about Rupees	4,208/-

(iii) Savings from the income derived from her Jagir and interest accruing on the promissory notes.

4. I also append herewith

- (i) a Memorandum of the facts of the case and some important points to be taken into consideration in connection with it.
- (ii) a genealogical table, and
- (iii) a copy of opinion of an authority on the Hindu Law.

Enclosures.

1. Memorandum.
 2. Opinion.
 3. Genealogical table. (See page XXIV),
 4. Copy of letter.
 5. List of Jewels.
-

XVII

Copy of a Memorandum giving the facts of the case and some important points in connection with the case.

1. 1896-1898,

On the deposition of the Ex-Maharaj Rana Zalimsinghji and the partition of the original State of Jhalawar, His Highness the Maharaj Rana Bhawaini Singhji succeeded to the reduced State and all the movable State property. He came into undisputed possession of all the family property of the Ruling House, e.g. the personal property at Jhalrapatan which had successively belonged to Maharaj Rana Madan Singhji, (Founder of the State), Maharaj Rana Prithvi Singhji and to the Ex-Maharaj Rana Zalimsinghji himself, such as, precious jewels of the Obari (Jewel Treasury), costly robes etc., of Tosha Khana (Ward Robe) and be-jewelled arms of Silleh Khana (Armoury).

Note.—The partition did not affect the movable property of the Ruling House, such as, State Jewellery, Regalia, Paraphernalia, etc.

2. Subsequent to the partition, the two Ex-Maharanis continued to reside at Jhalrapatau under the protection of His Highness, the present head of the Ruling Family, and hence retained the use of the State jewellery.

3. His Highness came into undisputed possession of all the jewels and personal property that had been retained by

- (1) Ex-Maharani Maji Guheliji Sahiba (wife of the Ex-Maharaj Rana Zalimsinghji and co-wife of the deceased Ex-Maharani Maji Rathorji),
- (2) Maji Jaisalmeriji Sahiba (widow of Maharaj Rana Madan Singhji, grand father of Ex-Maharaj Rana Zalim Singhji and founder of the State),
- (3) Khawas Gulbaghji and others,

on their deaths, which took place after the deposition of the Ex-Chief and partition of the original State.

Note.—On the death of *Ex-Maharani Maji Guheliji Sahiba*, whose legal status was exactly the same as that of the deceased Maji Rathorji Sahiba, His Highness succeeded to the whole of her property. *Even her husband*, the Ex-Maharaj Rana Zalim Singhji, who was then alive, did not put forward any claims, nor did her co-wife, the deceased Maji Rathorji.

4. In 1905 at the pressing request of His Highness the Maharajah Sahib of Kishangarh, the Jhalawar Darbar consented to the Ex-Maharani's visiting Kishangarh.

Note.—His Highness the Maharajah of Kishangarh, acknowledging the position of His Highness as the head of the Ruling Family, including the Ex-Maharani Sahiba, wrote to him for permission for her to proceed to Kishangarh (vide his letter dated the 26th July, 1905, copy attached). It was a visit according to the Rajput custom, so no objection was raised to the Ex-Maharani Sahiba retaining the State jewels for her use.

XVIII

5. In 1907 when she did not return to Jhalrapatan, the late Dewan Bahadur Pandit Prama Nand Chaturvedi wrote to the Political Agent for the safe custody of the State jewels in her possession (vide letter No. 494 dated the 2nd November, 1907).

6. In 1908, the accompanying list was supplied to the Political Agent, Kotah and Jhalawar, at request.

7. In 1912 the Ex-Maharaj Rana Zalim Singhji died at Benares and the award of 1914 by Sir Elliot Colvin relates only to the personal property of the Ex-Maharaj Rana Zalim Singhji left at Benares, and not to the State jewels in the possession of the Ex-Maharani Sahiba.

To quote from the award "Had the property in question been State jewels or other property which passed in succession from one chief to another, the Jhalawar Darbar might have been able to make good their claim."

8. Shortly after the demise of Her Highness the Maharani Hadiji Sahiba in October last and sometime before her own demise, the Ex-Maharani Maji Rathorji Sahiba sent a deputation with a *condolence message* (in writing) to His Highness in which she fully and un-equivocably recognised her relationship with His Highness.

II.

According to the customs of Rajputana, the State jewels were not the Ex-Maharani Sahiba's personal property and hence *could not be disposed of by her* and ought to be restored to the State Obari. (They must be regarded as the Crown Jewels of a Royal Family).

III.

His Highness being the nearest agnate to her late husband succeeds, according to Hindu Law, to the personal property, left by the deceased. He was adopted into the Ruling Family by Maji Jaisalmeriji Sahiba, widow of the founder of the State. But he is the nearest heir even if his original lineage be considered.

(The genealogical table is enclosed).

"*In Northern India, the principle of agnation prevails in its strictest form*"—Mayne on Hindu Law and Usage para 561 page 763.

According to Hindu Law, the widow (Maji Rathorji Sahiba) had not the right to dispose of the property held from her husband, by will or otherwise.

"A married woman cannot devise property inherited from males, whether movable or immovable; since her interest in it ceases at her death"—Mayne on Hindu Law and Usage para 407 page 541.

G

OPINION

of

THE HON'BLE DOCTOR TEJ BAHADUR SAPRU,

Doctor of Laws and advocate of Allahabad High Court. (Member of the Supreme Legislative Council and of the Subjects Committee appointed for Montague-Chelmsford Report).

The dispute in this case relates to the estate left by the widow of Maharajah Zalim Singh who was deposed from the Gaddi of Jhalawar. It appears that the deposed Chief was in receipt of an allowance of Rs. 25,000 per mensem, the bulk of which was contributed by the Kotah State and the rest by Jhalawar. Maharajah Zalim Singh made considerable saving out of the allowance and when he died left considerable accumulation. The Kotah State claimed these accumulations urging that they represented the unspent amount of the allowance paid for the use and benefit of the late Maharajah. The Maharajah of Jhalawar claimed them as his heir-at-law and so did the widow of Maharajah Zalim Singh. The matter was referred to the arbitration of Sir Elliot Colvin who gave his award in favour of the widow. I have read his award and I fully agree with it. Now the widow has died and there are two claimants. The first is the present Maharaja of Jhalawar and the second is the Maharaja of Kishangarh, who is the son of the brother of the late Maharani, the widow of Maharaja Zalim Singh.

I cannot see any foundation for the claim of the Maharaja of Kishangarh. The state is, in the eye of the law, the estate of Maharaja Zalim Singh. His widow held it only for *her life as a Hindu widow with limited rights*. She could not dispose of it by will or otherwise. Upon her death the estate must revert to the nearest heir of her husband Maharaja Zalim Singh—and according to the pedigree shown to me, I find that the present Maharaja of Jhalawar is his nearest heir. The widow's nephew *viz.*, the Maharaja of Kishangarh, can never be his heir under the Hindu Law. I must say that I am of opinion that after his deposition from the throne of Jhalawar, Maharaja Zalim Singh became a private individual and the ordinary Hindu Law would apply to him.

As regards the jewels left by the widow I understand the case of the Maharaja of Jhalawar is that they are State jewels, and were given to the late Maharani for her personal use during her life and that according to the customs of the State they must revert to the State upon her death. The custom is apparently a reasonable one, but it is a question of fact and if it can be proved, I think the claim of the Maharaja of Jhalawar should prevail.

(Signed). TEJ BAHADUR SAPRU,

ADVOCATE, HIGH COURT,

Dated 21st February 1919.

Allahabad.

XX

Copy of letter from His Highness the Miharaja Sahib of Kishangarh, to His Highness the Maharaj Rana of Jhalawar dated the 26th July, 1905.

As you know that my aunt has not come to Kishangarh since her marriage, I am anxious that she should come here for a visit.

I have not been able to see her at all and when she was married I was only about three or four years old, and I have no doubt that she is equally anxious to see me. I hope you will not have any objection to her coming here. On hearing from you I should ask my Resident to move the matter officially.

I want my aunt to come here before the rain has made the roads impassable.

XXI

JHALAWAR LIST.

List of State jewels given to Maharani Rathorji.

Number.	Names.	No.	Weight.	Tolas.	Mashas.	Rattis.
Gold ornaments set with gems.						
1.	Tamnia (necklace) set with diamonds and pearls	1	30	5	0	
2.	Enamelled Rakhi set with pearls	1	...	...	...
3.	Nath (nose ring) of Peacocks set with diamonds and pearls with pendant of 3 large pearls	1	2	5	6	
4.	Champakali (necklace) set with diamonds with pendants of emerald and pearls ...	1	17	5	6	
5.	Finger ring set with pearls and rubies ...	1	0	6	3	
6.	Mala (necklace) with pendant set with diamond and emerald	1	6	4	3	
7.	Diamonds Hars (necklace)	1	59	6	0	
8.	Bajris (bracelet) set with diamonds... ...	2	22	2	7	
9.	Dal (bracelet) set with diamonds	2	18	1	0	
10.	Madlia (bracelet) set with diamonds ...	2	43	7	3	
11.	Kangan (bracelet) set with pearls and rubies	2	17	2	0	
12.	Pearls necklace of 7 strings... ...	1	12	2	0	
13.	Karanphul Jhumka (pendant) with pendant of pearls	7	14	7	7	
14.	Tika (head ornament) set with diamonds with pendant of pearls	1	1	10	1	
15.	Jhuntra (pendant) set with diamonds with pendant of pearls	2	16	9	6	
16.	Pata (necklace) set with emerald with pendant of pearls	1	17	1	1	
17.	Pipla patta (pendant) set with diamonds with pendant of pearls	6	4	2	3	
18.	Diamond Tika with pendant of emerald rubies and large pearls	1	4	5	0	
19.	Enamelled Bazuband (bracelet) set with diamonds	1	31	10	0	
20.	Lum of Madalias (bracelet) with pendant set with diamonds	2	10	4	4	
21.	Besar (nose ornament) set with diamond and emerald	1	0	10	4	
22.	Gutian (head ornament) set with pearls with 4 strings of pearls	2	8	6	0	
23.	Pearls Gajras (bracelet)	2	10	8	3	
24.	Nath (nose ring) of pearl peacocks with pendant of two pearls as large as dungri plums	1	4	10	3	
25.	Patia (necklace) set with diamonds with top of pearls	1	20	3	2	
26.	Ponchi (bracelet) set with pearls	2	9	8	2	
27.	Morpata (head ornament) with two peacocks set with diamonds and rubies and pearls strings	2	12	0	4	
28.	Bala (ear ring) set with diamonds and with pendant of emeralds, rubies and pearls ...	2	16	7	4	

XXII

Number.	Names.	No.	Weight.
	Gold ornaments set with gems.		Tolas. Mashas. Rattis.
29.	Amkana (ear ring) with pendant of pearls and emeralds	1	1 0 6
30.	Pazeb (an ankle ornament)	2	46 3 0
31.	Pearls necklace of seven strings with a pendant set with diamonds	1	8 7 6
32.	Hathphul (bracelet) set with diamonds, emeralds and rubies	2	12 9 6
33.	Pearl Pipal Pattas (pendant) set with diamonds	2	3 8 4
34.	Enamelled Pipal Pattas with pendant of pearls	2	9 9 3
35.	Nath (nose ring) of peacocks set with diamonds with pendants of large pearls ...	1	3 1 2
36.	Karanphul set with diamonds with pendant of pearls	2	12 2 0
37.	Rakhri (head ornament) set with diamonds	1	1 0 7
38.	Ponchi (bracelet) set Nauratan, diamonds, etc.	2	7 8 2
39.	Karanphul set with Topas with pendant of pearls	2	7 4 3
40.	Pipal patta set with turmalas, with pendants of pearls	6	5 11 5
Total weight of gem-set ornaments		... ...	534 5 4

List of State Jewels given to Maharani Rathorji.

Number.	Names.	No.	Weight with Bardana.
	Gold ornaments.		Tolas. Mashas. Rattis.
1.	Bazu (bracelet)	1	23 0 0
2.	Hathphul (bracelet)	2	90 3 0
3.	Ramchol (Anklet)	2	196 0 0
4.	Mandlia (bracelet)	1	9 6 6
5.	Nogri (bracelet)	2	47 3 3
6.	Kara (bracelet)	2	33 10 0
7.	Bajri (bracelet)	2	23 3 0
8.	Gold (bracelet) ... ... ... ..	...	2 0 0
9.	Pipal patta (pendant)	2	13 11 0
10.	Kathla (necklace)	1	14 1 0
11.	Ponchi (bracelet)	2	14 0 0
12.	Jhuntna (pendant)	2	14 4 0
13.	Ramjhol (Anklet)	2	87 5 0
14.	Bindi (head ornament)	1	21 5 0
15.	Tamnia (necklace)	1	27 5 2
16.	Bajri (bracelet)	2	10 6 4
17.	Dal	2	10 1 0
18.	Baindi (head ornament)	1	6 4 4
19.	Khagwala (necklace)	1	63 6 0
20.	Bazu (bracelet)	2	41 11 0

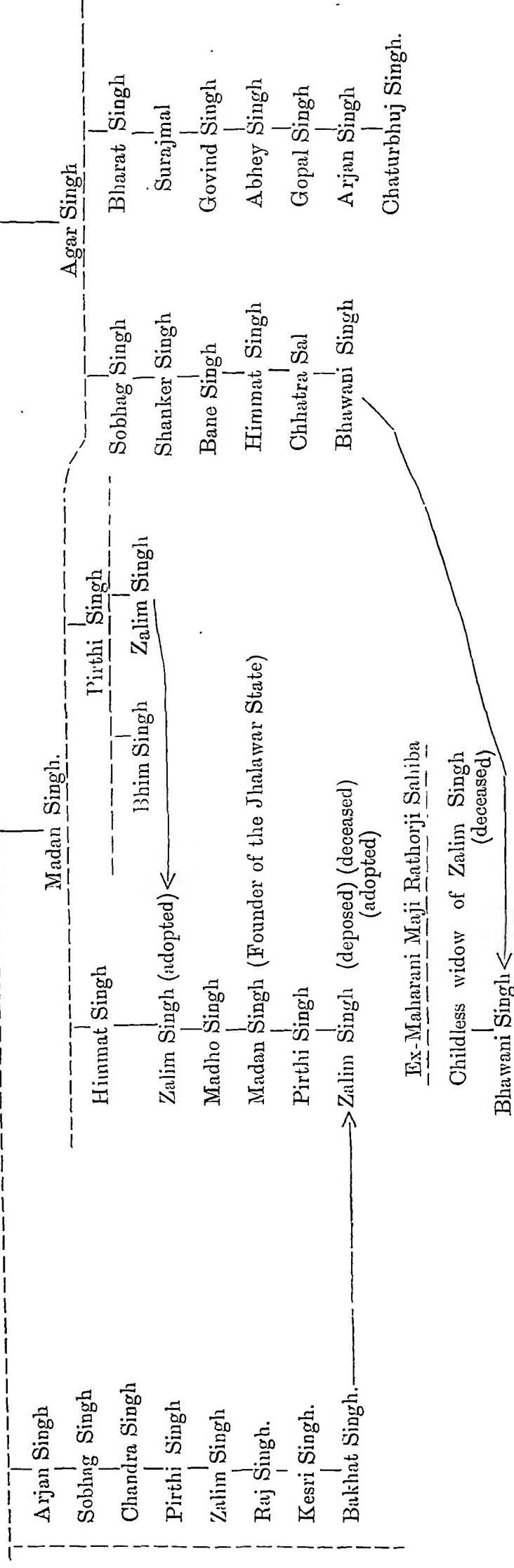
XXIII

Number.	Names.	No.	Weight.		
	Gold ornaments set with gems.		Tolas.	Mashas.	Rattis.
21.	Naugri (bracelet)	...	2	33	4 0
22.	Gutian (head ornament)	...	2	20	1 0
23.	Finger rings ...	...	16	7	3 0
24.	Mandlia (bracelet)	...	1	7	5 5
25.	Toras (anklet)	...	2	106	10 0
26.	Karas and Neories (anklet)	...	4	113	0 0
27.	Gutian (head ornament)	...	2	12	0 0
28.	Bor (head ornament)	...	2	2	7 6
29.	Timnia (bracelet)	...	1	26	9 0
30.	Hars (necklace)	...	1	22	5 0
31.	Gujrian (bracelet)	...	2	9	7 0
32.	Har satlara (necklace)	...	1	35	10 6
33.	Jhuntna (pendant)	...	2	16	1 6
34.	Dal (bracelet)	...	2	15	1 6
35.	Bajri ...	...	2	15	5 4
36.	Tamnia (necklace)	...	1	13	10 2
37.	Baindi (head ornament)	...	1	16	0 0
38.	Bazu (bracelet)	...	1	26	5 0
39.	Gujrian (bracelet)	...	2	10	11 0
40.	Jhuntna (pendant)	...	2	13	0 0
41.	Dal (bracelet)	...	2	13	1 2
42.	Hars (necklace)	...	1	24	8 2
43.	Baindi with Jhumkas (head ornament)	...	1	6	4 0
44.	Bazu band (bracelet)	...	1	11	11 4
45.	Bajria (bracelet)	...	2	11	11 4
46.	Ponchi (bracelet)	...	2	7	1 4
Total gold ornaments				1404	6 6
Gold chhari for mirdha				1	
<i>Silver ornaments.</i>					
Silver ornaments				81	2212 0 4

(7) GENEALOGICAL TABLE.

Certified Copy of the Genealogical table forwarded with Jhalawar Memorandum by the Resident Jaipur with his D. O. letter No. 770, dated the 13th February, 1920.

Bhav Singh.



(Selected by Government as Ruler of the re-constituted Jhalawar State, and adopted for religious purposes by Maji Jaisalmerji, widow of Maharaj Rama Madan Singh, Founder of the Jhalawar State.)

'True Copy
(SD). A. RUESIR COOPER H. C.
Residency Office Jaipur.



XXV

ANNEXURE No. 5.

Copy of letter No. 494, dated the 2nd November, 1907, from the Dewan of Jhalawar, to the Political Agent, Kotah and Jhalawar.

I have the honour to state that the Maharani Rathorji Sahiba has in her possession a number of State jewels which in accordance with the custom of the State were given to her for use only. If she had continued to live at Jhalrapatan no question need have arisen regarding the said jewels during her life time. But she intends to reside at Kishangarh for an indefinite period and it is said that she has entrusted some of the said jewels to the care of Gushain of the Muthranathji's temple at Kotah. As the jewels are very valuable, the Darbar have thought it proper to address her through you, and to ascertain the facts of the case. The only thing Darbar desire is to have an assurance of the safe-keeping of the jewels in question. The Maharani is at liberty to use the jewels as long as she may like, but they must be kept in a manner that their safety may not be risked.

ANNEXURE NO. 6.

Pages XXVI—XXVII.

XXVI.

ANNEXURE No. 6.

Extract from Aitchison's Treaties, Engagements and Sanads, Volume III.
Edition Fourth. Page No. 364.

The existence of Jhalawar as a separate State dates only from 1838, when the Kotah principality was dismembered (See Kotah). On the establishment of Raj Rana Madan Singh in Jhalawar a Treaty (No. CLVII) was concluded on the 8th April 1838, by which he acknowledged British supremacy; engaged not to negotiate with any other power without the sanction and knowledge of that Government; and agreed to supply troops according to his means, and to pay an annual tribute of Rs. 80000. Agreeably to the 3rd article of the above Treaty Madan Singh, on assuming charge of his new principality, was vested with the title of Mahraj Rana. It was arranged that he should be placed exactly on the same footing as all the other rulers in Rajputana, and should receive the right of adoption, if that right should be conceded to other rulers; but the succession was to be limited to the descendants of Zalim Singh.

In 1845 Madan Singh died and was succeeded by Prithi Singh. During the mutinies of 1857-58 this Chief rendered good service by conveying to places of safety several Europeans who had taken refuge in his districts. In 1862 he was guaranteed the privilege of adoption (see No. V.).

In 1873 the Maharaj Rana solicited permission to adopt an heir to succeed him, in the event of his not having a son. Objections were entertained by the Maharao of Kotah on the ground that by the Treaty of 1838 Jhalawar would revert to Kotah in the event of the extinction of Zulim Singh's line. By this Treaty, however, the severance of Jhalawar and its cession to Madan Singh, his heirs and successors, was unconditional, and, although the consent of Kotah was obtained to the cession, the conditions were between the British Government and Jhalawar. It was accordingly held that Kotah could have no voice in the question of succession, and no ground of objection to the action of the British Government in having placed the Maharaj Rana of Jhalawar on the same footing as the other ruling Chiefs of Rajputana by the grant of the adoption Sanad of 1862. The required permission was, therefore, granted to the Maharaj Rana, and his choice fell upon Bakht Singh of the Barwan family in Kathiawar, from which the Mabaraj Rana was himself descended.

Maharaj Rana Prithi Singh died on the 29th August 1875. The question of succession remained for some time undecided, owing to the reputed pregnancy of his widow, but as no male child was born to her by the 1st June, 1876, the succession of the late Chief's adopted son, Bakht Singh, was recognised by the British Government. During the minority of the young Chief the State was placed under the superintendence of a British officer. Bakht Singh was installed as Maharaj Rana on the 24th June, 1876, when, in accordance with family custom, he assumed the name of Zalim Singh.

Zalim Singh attained his majority in November 1883, and was invested with full governing powers on the 21st February 1884, subject to the same

K

XXVII

restrictions that were imposed in similar circumstances on Maharao Raja Mangal Singh of Alwar, and Maharaj Rana Nihal Singh of Dholpur. These were that he should consult the Political Agent in all important matters and be guided by his advice; and that the concurrence of the Political Agent should be obtained before any important measures effected during the minority were disturbed, or before any changes were made in the existing form of the administration. Owing to the Maharaj Rana's persistent disregard of the conditions upon which he was entrusted with the government of the State, the Government of India was compelled, in September 1887, to restore the arrangements which were in force during his minority. In November 1892, however, it was decided that Maharaj Rana Zalim Singh, who had promised amendment, should be restored to power on conditions similar to those which had previously been laid down, and he was again entrusted with some departments of the administration. In July 1894, he was granted full powers. He failed, however, to govern the state properly and was deposed on the 22nd March, 1896. In consequence of his deposition, and of the fact that there was no direct descendant of the Regent Zalim Singh, the Government of India, taking into consideration the intentions of the framers of the Treaty of 1838 made with the first Chief, Raj Rana Madan Singh, ordered that part of the territories which were made over by Kotah in 1838, in order to form the principality of Jhalawar, should be restored to Kotah. In memory of the services rendered by the first Raj Rana Zalim Singh, the remaining portion consisting of the Chaumahla, the Patan pargana and a part of Suket, was formed into a new State to provide for the family to which the said Raj Rana belonged, and Kunwar Bhawani Singh, son of Thakur Chhatar Sal of Fatehpur, was selected by the Government of India from among the descendants of the relatives of the Regent Zalim Singh, to be the Chief of the new State, with the title of Raj Rana. On the 1st of January 1899 the actual transfer of territory was effected, from which date the new State of Jhalawar came into existence.

Bhawani Singh, who was born on the 4th September, 1874, was installed as Chief on the 6th February 1899, and was at the same time invested with full powers.

ANNEXURE NO. 7.

Page XXVIII—XXIX.

(ANNEXURE No. 7.)

JHALAWAR STATE PAPERS PART III PAGE 10.

Translation of a Kharita from Urdu written by H. H. Maharaj Rana Zalim Singh Saheb of Jhalawar.

To His Excellency the Most Noble, the Purest Fountain of Favour and Kindness, the Benefactor to Well-Wishers—May his favours increase.

With due deference and humble submission I beg to state that it is a well known fact how my ancestors and I have always sought the welfare of the Government and have been subservient to the wishes of Government. The affair at Dara Mokundra connected with Maharajah Zalim Singhji Bahadur is one of the many deeds recorded in the annals of the Government proving how sincerely devoted he was to the cause of the Government. From my infancy I have been brought up under the care and supervision of the British Government, and I cannot sufficiently thank the Government for the many favours and kindnesses that have been shown to me. I have always studied to please the Government by my loyalty, and I have always depended and will depend upon Government in the belief that my welfare hung upon such dependence. I am confident, that whatsoever serious charges be brought against me by Government officials, and whatever strenuous efforts be made to bring home those charges by false and manufactured evidence, the higher authorities, taking into consideration the history of past services and loyalty, would not be easily inclined to censure me and express their disapproval of my conduct, and that I shall not be held responsible for an offence which I did not commit. I intended to give in detail and to submit in another *Kharita* all the indignities and hardships to which I have been, and am subjected, and to support by full evidence my allegations, but ill health preventing me from doing any such thing. I have not yet fully recovered my health, but by orders of the Political Agent and the higher officer (?) I was placed under military surveillance. Regiments from Agra and soldiers and detachments of cavalry were without any reason called from Deoli. I am told that more regiments would be coming from Deoli. The Bakhshi of the army, who was an old servant of the Reasat was, at the suggestion of the Political Agent ordered to sever his connection. Bhuwani Singhji is the kumar (son) of a jagirdar and my inveterate enemy. He is a pretender and calls himself the heir to Guddy, but as a fact, he is not the heir to the Guddy. Had there been any one of the family, who could claim himself to be the heir, why should Maharaj Pirthiraj have called me from Kathiawar and made me his successor? My inveterate enemy has been made the Bakshi of the army. From the date my enemy had been appointed in charge of the Army as Bakhshi, some of the officers in the army have by promises of promotions and emoluments and others by threats and intimidations been won over to give false evidence in the well known manner in which the Police do their business. Some ten or eleven persons have in this manner been tempted and coerced to give false evidence about things which do not exist except in the imagination. The statements have been caused to be attested at the Bungalow. Persons most of whom have previous convictions against them are daily called at the Bungalow and their statements are recorded. Those who ear God and are averse to make false and worthless statements such as are procured by the Police are not wanted and their evidence is not recorded. Having sub-

XXIX

mitted all these and having shown the worthlessness of all the mischievous proceedings of the above named person, I earnestly pray that Your Excellency will not place any reliance on such got-up stories, and I trust that those ex parte proceedings should not be based upon such manufactured evidence, otherwise it is feared that great injustice will be done to an innocent person like myself, and that the Government, after coming to know the real facts which I am prepared to prove, would see the mistake. I can assure your Excellency that I do not intend to, and I will not, take any action but calmly and quietly submit to the decree of the Government.

The relations and dependants of the men employed in the Agency have been giving it out that the Political Agent has given hopes to the Dewan of the Reasat that if he, the Dewan, would clear away the road to every thing, then he the Agent would be located there, and he would make the Dewan a Vice-President of the Council. It is in this way that the Dewan, the Political Agent and Kumar Bhawani Singh have changed many people employed in the army and the Reasat, and induced them to cause mismanagement in every department. In fact by throwing temptation in the way, the affections of some men have been alienated from me and have placed me in a precarious and difficult situation. The disaffection and enmity have been pitched to such an extent, that I am now in danger of my life. Those who do not become my enemy are persecuted and misled to such a degree that they are contemplating to give up my service. There was an English knowing Head Clerk in my service, he was placed in such a consternation that he had to resign my service. There is not any one with me who can read and write English, and it is for this reason I have to submit this Kharita in the Urdu language. Being a well-wisher of Government I believe that I am under its protection, and I submit these few facts in the hope that Government will at once treat me kindly and save my life, and I trust that once for all an end be put to the needless hardships and indignities to which I have been subjected at the instance of the Political Agent, acting in consultation with the higher official, and that Your Excellency will be pleased to take immediate action in the matter.

The Bakhshi, who has just been superseded by Kumar Bhawani Singh, the pretender, at the instance of the P. A., was reported by some budmashes to the Political Agent that he was leaving the station and proceeding to his home. The Political Agent caused the regiments that have been called from Deoli to surround his house and keep surveillance over him during night. It is feared that his house will be searched and he subjected to various indignities. I am afraid that some such action might be taken against me also. The above two matters require the immediate attention of your Excellency and I trust that Your Excellency will be graciously pleased to direct that neither myself nor the Bakhshi be molested in the way referred to above. I may at leisure bring to Your Excellency's notice other matters either personally or by my Agent dealing with the oppressions and hardships to which the Reasat had been subjected. Mr. W. C. Bonnerjee, Barrister-at-Law of the Culcutta-High Court, will act on my behalf. Dated the 17th January, 1896.

Signed by the Jhalawar Darbar.

ANNEXURE NO. 8.

Pages XXX—XXXIII.

(ANNEXURE No. 8.)

JHALAWAR STATE PAPERS-PART II PAGE 5.

His Highness Maharaj Rana Zalim Singh Bahadur of Jhalawar.

My Esteemed Friend,

The position of Your Highness in respect to the administration of your State has continued to claim the careful consideration of the Government of India, since my predecessor, in December 1892, re-entrusted with ruling powers, subject to certain limitations, and I have the pleasure of informing Your Highness that, on the recommendation of Colonel Trevor, my Agent in Rajputana, I have decided that full powers shall now be restored to you, and that you are at liberty to determine whether Dewan or a Council will best assist you in the administration of your State. In announcing this important decision, which will, I doubt not, be highly gratifying to you, the sole reservations, which I have to make are that I expect and require Your Highness not to alter or reverse any existing laws, measures or acts without the advice and approval of the Political Agent, and not to appoint as a member of Your Highness's Council or as your Dewan, any person to whose selection the Political Agent or the Agent to the Governor General may see sufficient objection.

I rely upon Your Highness to keep the Political Agent freely and fully informed of all the matters with which he ought to be acquainted, and it is necessary that I should add a caution that, if, unhappily, the Government of India, should hereafter be unable to approve of Your Highness's conduct of the administration, the present decision will be liable to reconsideration.

It is my earnest hope that Your Highness will make good and judicious use of the powers now entrusted you, and will thus justify the confidence which in view of Colonel Trevor's reports I feel able to repose in you.

I remain with much consideration,
Your Highness's sincere Friend,

(Sd.) ELGIN.

Viceroy and Governor General of India.

SIMLA;

The 30th June 1894.

M

XXXI

JHALAWAR STATE PAPERS PART II PAGE 19.

Kotah, 21st September 1895.

My dear Maharaj Rana,

In my letter dated the 16th instant I omitted to mention a matter of considerable importance concerning the finances of the State.

About the middle of the last month the man Bhawanilal made an application for some 8 lakhs of rupees for expenses in connexion with Her Highness the Maharani's condition.

To this Your Highness replied that the whole sum could not be at once granted but that $4\frac{1}{4}$ lakhs would be sanctioned. This sum of money was accordingly removed to Your Highness's kothi. As such a demand upon the treasury was quite unusual and far in excess of any similar expenses incurred by the largest and richest states of Rajputana it was certainly a matter upon which under the terms of Lord Elgin's Kharita I should have been given free and full information.

Your Highness, however, carefully concealed the circumstances from me and it was only by chance that I heard of it. I must now ask Your Highness to furnish me with the following information :—

1. The reason for such a large demand amounting as it does to more than one half the entire yearly revenue.
2. An account showing in detail the manner in which this money has been and is being expended, and
3. The reason why a matter of such importance was not reported to me.

Yours sincerely,
(Sd.) W. EVANS GORDON.

Jhalrapatan, 23rd December 1895.

My dear Captain Gordon,

I take this opportunity to reply your letter dated September 21, written from Kotah with regard to the money taken under my orders from the State Treasury in connection with Her Highness the Maharani's condition.

The amount was withdrawn in the latter end of August, and I am told that a state servant verbally informed you of what had been done, two or three days afterwards after the withdrawal. You did not however, then make any inquiry about the same. Even in your letters on the subject of Bhawanilal, I find no mention of the withdrawal, nor in your letter to me of September 16, do you make any mention of it. This led me to suppose that the matter was one on which you did not require to be informed. As for concealing the matter, I may say that the money was not surreptitiously taken from the Treasury but by means of a public order and duly entered as such in the public accounts. Under the circumstances, I do not think there was any thing to fear from you to induce me to take cares to conceal the fact. I take objection to the tone of your letter on this point. The amount was undoubtedly a large one, and as such it has attracted your notice. Although the matter is one affecting me and my private household, and as such not one, which I conceive, I am bound to bring to your notice under the terms of His Excellency's Kharita, I should nevertheless have informed you had you required so of it as the amount was somewhat large. Before, however, I could do so, the information was apparently conveyed to you from other source, which caused you to look at the matter from a standpoint opposite to mine.

In your letter of September 21, you say that the amount $4\frac{1}{4}$ lakhs is far in excess of any similar expenses incurred by the largest and richest states in Rajputana. May I bring to your notice that the ceremonies for which I have taken the money are the first of the kind in my family, and as such, a source of great pleasure to me. It was my duty to make presents to Her Highness the Maharani and the expenses were considerable. You are aware that the expenditure on marriage and other ceremonies among us, such as the present is apt to be very great in Rajputana and Western India generally. I do not personally approve of such lavishness, yet the position of Her Highness the Maharani as the daughter of the Maharana of Kishangarh, compelled me to incur a greater expense than I might have otherwise done. I ask you from your personal knowledge of my character to say whether you ever had any occasion to find fault with me for squandering my revenues on immoral and frivolous purposes.

Considering the exceptional circumstances, I feel sure, you will agree with me that the amount is not excessive, and even if I should fail to secure your agreement on this point, I am confident you will not allow this present indiscretion, if any, to outweigh my already established good moral character and prudence. I will only add that even a rich Hindu banker whose income may not exceed two lakhs a year, will often spend three or four lakhs on ceremonies of this kind. Even in my own marriage in 1887 I had spent almost a similar amount without a word of protest from the then Political Agent, Colonel Abbot, who was then not favourable to me.

XXXIII

You have asked me to state in detail the manner in which the money has been spent. I am sorry to say it is impossible so to do, as the money has been made a gift of to Her Highness the Maharani Sahiba in anticipation of the birth of a son, and as such, according to the Hindu Shastras, a gift cannot be taken away.

In conclusion, I am glad to state that there are some other facts in this connection, but this is not the occasion for detailing them here. Should the Government of India require from me any further explanation I hope to furnish one.

I much regret that I could not send a reply earlier owing to my serious illness of which you are well aware.

Yours very sincerely,
(Sd.) ZALIMSINGH.

XXXIV

ANNEXURE No. 9.

List of the late Ex-Maharani Rathorji of Jhalawar's benefactions, charities, and religious endowments etc., giving approximate figures expended on each.

1. PILGRIMAGES.

(1) To Brij, Jagdish, Benares, Allahabad and Gaya etc, from 30th July, 1909 to 25th October, 1909	8,326
(2) To Hardwar from 19th May, 1910 to 27th May, 1910	590
(3) To Pushkar on 31st March, 1913	100
(4) To Brij, Nathdwara, Dwarka, and Rameshwar, from 22nd October, 1913, to 4th February, 1914	18,281
(5) To Brij from 9th October, 1914 to 30th October, 1914	1,546
(6) To Pushkar from 26th April, 1915 to 28th April, 1915	94
(7) To Brij from 7th September, 1916 to 15th November, 1916 ...	3,401
(8) To Allahabad from 11th January, 1917 to 18th January 1917 ...	1,107
(9) To Muttra and Gir Raj from 13th September, 1917 to 19th December, 1917	4,795
TOTAL	38,177

2. RELIGIOUS ENDOWMENTS.

(1) Jatipura Temple.	
i. Building	30,000
ii. Jewels, Robes, gold and silver articles for Thakurji...	70,000
iii. Permanent endowment for the expenses for the temple	1,00,000
	<hr/>
	2,00,000
	<hr/>
(2) Dedication to Kotah temple	50,000
	<hr/>
	2,50,000
	<hr/>
	2,50,000

3. CHARITIES.

(1) Gifts to temples and Vaishnav Gurus	5,000
(2) Expenses in connection with the obsequial ceremonies of the late Ex-Maharaj Rana at Benares	3,413
	<hr/>
	8,413
	<hr/>
	8,413

4. BENEFACTIONS.

Monies spent on dependants, marriages of maid servants, and gifts to others etc.	3,000
GRAND TOTAL	2,99,590

ANNEXURE No. 10.

Copy of letter No. 1381, dated the 15th September, 1922, from the Administrator, Jhalawar State to the Secretary to the Hon'ble the Agent to the Governor-General, Rajputana.

I have the honour to acknowledge with thanks your letter No. 3699, dated the 7th July, 1922, forwarding copy of letter No. 66 C dated the 17th June, 1922, from the Chief Member of Council, Kishangarh, for remarks.

It will kindly be noted that the request for the preparation of an inventory of the assets bequeathed by the late Ex-Maharani Rathorji has been repeatedly urged by the Jhalawar Darbar. The reply of the Kishangarh Darbar now received after considerable hesitation on their part, is incomplete and makes it abundantly clear that they still find it difficult and inconvenient to furnish such an inventory. Until the Jhalawar Darbar are informed as to what particular things are in the safe custody, the mere assertion that property, whatever it may be, is in the safe custody is of little value. There is, of course no question of property in the shape of lands and Jagir villages, and the Darbar also feel satisfied regarding the custody of the Promissory Notes. With regard to the latter however, it may be remarked that, on the demise of her husband the late Ex-Maharani Rathorji had come into possession of promissory Notes of the face value of Rs. 1,71,700 and not as stated by the Kishangarh Darbar, of the value of Rs. 1,53,700 only.

As the Kishangarh Darbar apparently do not wish to furnish the desired inventory, the Jhalawar Darbar would request the Hon'ble the Agent to the Governor-General to kindly intervene on their behalf and arrange to have a complete list of assets made with the least possible delay. The Darbar entertain the hope that when this is done, the Hon'ble the Agent to the Governor-General will kindly take early steps to appoint an arbitrator and they venture to suggest that he will himself undertake to pronounce a judgment on this controversial question. The Jhalawar Darbar will only be too glad to abide by his award.

Until the inventory and the arbitration are arranged, the Darbar consider it somewhat premature to offer any remarks on points of objection raised by Kishangarh Darbar to the Jhalawar claim.

No. 4773.

Dated the 4th October, 1922.

Copy forwarded to the Secretary Darbar, Kishangarh, for favour of an early reply to this Office D. O. No. 84 C dated the 12th July, 1922, to the address of Chief Member of Council, Kishangarh.

(Sd.) S. B. PATTERSON,

Lt : COLONEL,

Resident at Jaipur.

ANNEXURE No. 11.

Copy of letter No. 3193 dated the 14th August, 1923, from the Agent, Imperial Bank of India, Ajmer, to the Chief Member of Council, Kishangarh.

Alliance Bank of Simla Ltd (in Liquidation)

Ex.-Maharani Krishana Kanwur Rathorji of Jhalawar, deceased.

I am in receipt of your letter No. 216 M of the 8th instant and in reply thereto have to state that the securities standing in the name of the Alliance Bank of Simla Ltd. and held by the Liquidators on account of the estate of the late Maharani cannot be dealt with except under the instructions of the legal representatives of the deceased party and on production of Probate or Letters of Administration, granted by a competent British Court.

XXXVII

ANNEXURE No. 12.

Copy of a D. O. letter No. 1395 dated the 27th December, 1918, from the Foreign Member, Jhalawar State Council, Jhalrapatan, to the Political Agent, Kotah and Jhalawar.

In continuation of my letter D. O. No. 1394 dated the 25th instant I beg to invite your attention to letter No. 494 dated the 2nd November, 1907, from the late Dewan to your office and enclosure to your office letter No. 714 dated the 20th April, 1914, the copies of which are enclosed herewith.

From one of them you will gather that the late Ex-Maharani Rathorji Sahiba inherited from the late Ex-Maharaj Rana Zalim Singhji of Jhalawar, Government Promissory Notes of the face value of Rs. 1,71,700, and from the other you will see that she had for her use only, State jewels of considerable value.

Now, as she dies intestate, His Highness is, according to the customs of Rajputana, entitled to inherit her property as the only heir thereto.

The State jewels are, in any case, restorable to the State Obery (Treasury where jewels are stored).

As the Darbar are in mourning they cannot make an official representation in the matter. But it is essential that the State jewels and the property should be in safe custody until the representation is formally made.

I, therefore, request the favour of your kindly arranging the safe custody of the jewels and property in question.

To save time I have written to Colonel Benn confidentially on the subject.

True copy

(Sd.) ILLEGIBLE,
HEAD CLERK,
Residency Office, Jaipur.

XXXVIII

ANNEXURE No. 13.

Copy of letter No. 11 dated the 5th January, 1919, from Pandit Shyam Shankar, M. A., Bar-at-Law, Foreign Member, Jhalawar State Council, to Dewan Bahadur Pandit K. L. Paonasker, M.A., C.I.E., Chief Member of Council, Kishangarh.

The sudden and untimely demise of Her Highness the Maji Rathorji Sahiba comes as a great blow to His Highness. He was just looking forward to her return to Jhalarapatan to preside over the Zanana functions, especially on the occasion of the ensuing marriage of Shri Maharaj Kumar Sahib Bahadur. It was with this view that he proceeded to Kishangarh, fully hoping that Her Highness the Maji Sahiba would come with him back to this place to grace the Palace with her residence. The telegram that he had received from His Highness the Maharajah Sahib Bahadur of Kishangarh gave him to understand that her illness was but ordinary fever from which she would soon recover. So you can easily imagine the disappointment and sorrow which he felt at the unfortunate and unexpected turn of events.

His Highness observed full mourning and duly performed the *Kriya Karma* connected with the demise of Her Highness the *Ex-Maharani Sahiba*. He is now anxious to see that the domestics of Her late Highness, who were dependent on her for their subsistence, be duly provided. I am, therefore, directed to request you to be so good as to furnish me with a list of such domestics with the details of their pays etc. which they used to receive.

In this connexion I beg to draw your attention to the fact that the *late Maji Sahiba* had in her possession, for her use, a number of precious jewels belonging to the Jhalawar State Treasury and has left behind some property, consisting of Promissory Notes and cash etc.

I shall be highly obliged if you will be so kind as to prepare an inventory of the above and furnish me with the same. I presume that the Darbar have already made such arrangements as would ensure their safe custody.

O

XXXIX

(ANNEXURE No. 14.)

Copy of D. O. letter No. 20/M dated the 14th January, 1919, from Dewan Bahadur K. L. Paonasker C.I.E., M.A., Chief Member of Council, Kishangarh, to Pandit Shyam Shanker M.A. (London) Bar-at-Law, Foreign Member, Jhalawar State Council, Jhalrapatan.

I write to acknowledge the receipt of your letter No. 11, dated the 5th January.

2. When their Highnesses met here the other day, my Maharajah expressed to your Chief his feelings of grief and sympathy in the following words "Your Highness, on this sad occasion I can only mingle my tears with yours." That summed up every thing. The loss caused by the sad demise of Her Highness the Maharani Krishna Kanwarji Sahiba both to Kishangarh and Jhalawar is great and irreparable, and has been equally mourned by the two Darbars. The obsequies here too were performed on the same scale as on the occasion of the demise of Her Highness the late Maji Sahiba of Kishangarh, H. H's own mother. As regards the dependents, provision has been made in accordance with the wishes of the Bhuvaji Sahiba, and the allowance and emoluments they received during Her Highness's life-time, have been continued.

3. Regarding the jewellery in Her Highness's possession, it is not for Kishangarh to say, what 'Precious jewels' she received for her use from the Jhalawar Treasury (as it was before the new State of Jhalawar was brought into existence by the Government of India) or, what she did with some or all of that jewellery during her life-time. This is however full well known that whatever she possessed excepting her Jagir villages was Her Highness's personal property, and she had absolute right as to its disposal.

(ANNEXURE No. 15.)

Extract from the Imperial Gazetteer of India, Provincial Series Rajputana, Edition 1908, page 388.

* * * * *

JHALAWAR STATE.

The ruling family belongs to the Jhala clan of Rajputs, which has given its name to the State. One Rajdhar is said to have founded the petty chiefship of Halwad in Kathiawar about 1488, and the eighth in succession to him had a son, Bhaos Singh, who left his own country and proceeded first to Idar, and next to Ajmer, where he married the daughter of the Sesodia Thakur of Sawar, by whom he had a son, Madho Singh and a daughter. Nothing more is known of Bhaosingh, but Madho Singh proceeded to Kotah in the time of Maharao Bhun Singh, gained the favour of that chief, and obtained the estate of Nanta with the post of Foujdar or commander of the troops as well as of the fort. About the same time his sister was married to Arjun Singh, the eldest son of the Kotah chief, and this family connexion, while adding to Madho Singh's authority, procured for him the respectful title of *mama*, or maternal uncle, from the younger members of the Kotah family. Madho Singh was succeeded as Foujdar by his son. Madan Singh, and the post became hereditary in the family. Himmat Singh followed Madan Singh; and was in turn succeeded in 1758 by his famous nephew, Zalimsingh, whom he had adopted and who was at the time only eighteen years of age. Three years later Zalim Singh was the means of securing victory for the troops of Kotah over the army of Jaipur at Bhatwara; but he afterwards fell into disfavour with his master (Maharao Guman Singh) in consequence of some rivalry in love, and being dismissed from his office, he migrated to Udaipur, where he did good service, and received from the Maharana the title of Raj-Rana. Later on, he retraced his steps to Kotah, where he was not only pardoned but reinstated in his old office; and when the Maharao was on his death bed, he sent for Zalimsingh and committed his son, Umedsingh, and the country to his charge. From this time (1771) Zalimsingh was the real ruler of Kotah. He raised it to a State of high prosperity, and under his administration, which lasted for more than 50 years, the Kotah territory was respected by all parties. Through him a treaty was made with the British Government in 1817, by which Kotah was taken under protection; and by a supplementary article, added in 1818, the entire administration was vested in Raj Rana Zalimsingh and his heirs in regular succession and perpetuity. Zalim Singh, the *Machiavelli* of Rajasthan, as Tod calls him, died in 1824, and his son, Madho Singh, received undisputed charge of the administration. His unfitness for office was a matter of notoriety, and he was in turn succeeded by his son, Madansingh. In 1834 disputes between the chief of Kotah and his minister were constantly occurring, and there was danger of a popular rising for the expulsion of the latter. It was therefore resolved, with the consent of the Maharao of Kotah., to dismember the State and to create the new principality of Jhalawar as a separate provision for the descendants of Zalimsingh, 17 districts, yielding a revenue of 12 lakhs, were made over to Madansingh and his heirs and successors, being the descendants of Raj Rana Zalimsingh, according to the custom of succession obtaining in Rajwara, and by a treaty dated 1838 this new principality was taken under the protection of

the British Government, and agreed to supply troops according to its means, and pay a tribute of Rs. 80,000. The Jhalawar State thus dates from 1838; and its first chief, Madansingh, on assuming charge, received the title of Maharaj Rana, was entitled to a salute of 15 guns, and was placed on the same footing as the other chiefs of Rajputana. He died in 1845 and was succeeded by his son, Pirtbisingh, who, during the Mutiny of 1857-58, did good service by conveying to places of safety several Europeans who had taken refuge in his State. He received the usual Sanad guaranteeing to him the right of adoption in 1862, and on his death in August, 1875, was succeeded by his adopted son, Bakht Singh, of the Wadhwan family in Kathiawar. The latter, in accordance with family custom, which enjoined that only the four names of Zalimsingh, Madho Singh, Madansingh, and Pirthwi Singh should be assured by the rulers of this house, took the name of Zalimsingh. As he was a minor, the administration was carried on by a Political Superintendent assisted by a Council, and he himself joined the Mayo College at Ajmer. He attained his majority in 1883 and was invested with governing powers (subject to certain restrictions) in 1884; but as he failed to administer his State in accordance with the principles laid down for his guidance, the Government of India was compelled to withdraw his powers in 1887, and to restore the arrangement which were in force during his minority. In 1892 Zalimsingh promised amendment, and was entrusted with the charge of all the departments except that of Land Revenue, which was to remain under the Council, while in September, 1894, this reservation was withdrawn and he obtained full powers. But he failed to govern the State properly, and was deposed in 1896; he now lives at Benares, and receives an allowance of Rs. 30,000 a year. Zalim Singh had no sons and their being no direct descendants of his namesake, the great Regent, the Government of India restored to Kotah part of the territories which had been made over in 1838 to form the principality of Jhalawar, and formed the remaining districts into a new State for the descendants of the family to which the First Raj Rana (Zalim Singh) belonged, and for those Sardars and others whose allegiance it was considered undesirable to transfer to Kotah. In 1897 Kunwar Bhawani Singh, son of Thakur Chhatarsal of Fatehpur, and a descendant of Madho Singh, the first Jhala Foujdar of Kotah, was selected by Government to be the chief of the new State. Arrangements were completed by the end of 1898, and actual transfer of territory took place on January 1, 1899, from which date the new State of Jhalawar came into existence. Bhawani Singh was installed as Ruler, under the title of Raj Rana, with a salute of 11 guns, and was at the same time invested with full powers of administration.

* * * * *

ANNEXURE NO. 16.

Pages XLII—XLV.

P

(ANNEXURE No. 16).

AWARD OF SIR ELLIOT COLVIN.

Regarding the property left by the late Ex-Maharaj Rana Zalim Singh of Jhalawar.

Maharaj Rana Zalim Singh of Jhalawar was deposed under orders of the Government of India, on March 2nd 1896, and retired to live at Benares. He died there on October 8th, 1912, leaving a considerable amount of property, *viz.*,:—

Government Promissory Notes	...	Rs. 130,000	0	0
Cash	...	..	..	„ 40,718 2 7

A large number of articles, such as clothes, guns, watches, mostly of small value, of which a list (copy attached) is attached to letter No. 1151, dated the 8th July, 1913 from the Political Agent, Kotah and Jhalawar to the address of the First Assistant to the Governor-General, in Rajputana.

The Government paper and cash are with the Bank of Bengal at Benares. The articles in the list are also at Benares, where the Agent to the Lieutenant-Governor has made arrangement for their safe custody.

2. There are three claimants to this property.

The Jhalawar Darbar, and the Ex-Maharani Rathorji, widow of the Ex-Chief claim the entire estate. The Kotah Darbar claims no share of the articles enumerated in the list, but desires that the Government paper and cash should be returned to the States of Kotah and Jhalawar, each state receiving a share proportionate to the amount which it contributed towards the Ex-Chief's monthly allowance.

3. Each of the claimants has been given a full opportunity of studying and replying to the claim of the other two.

4. All three parties, after filing their claims and their written replies, have expressed a wish that I should arbitrate between them; and the Government of the United Provinces have agreed that the property in dispute shall be made over to the claimant to whom it may be adjudged by me as arbiter, subject to certain provisos which have been sufficiently complied with, I therefore proceed to give my opinion on the claims.

5. The reason why the Kotah Darbar appears as a claimant may conveniently be explained first. On the deposition of the Ex-Chief, Maharaj Rana Zalim Singh, the Government of India decided that it was necessary under certain Treaty obligations, to restore to Kotah a considerable portion of the State over which Maharaj Rana Zalim Singh had ruled. The extent of this portion was roughly about two-thirds of the Jhalawar State as constituted previous to Zalim Singh's deposition and it was accordingly decided, when Zalim Singh was deposed that the monthly allowance of Rs. 2,500 fixed for the Ex-chief should be paid by the two States of Kotah and Jhalawar in the proportion of two-thirds and one-third respectively. The Ex-chief lived in a

very poor and meagre fashion, never making any attempt to utilise the whole of his allowance, and it is not disputed that the Government Promissory Notes and cash, standing to his credit, on his death, represent the accumulations of this allowance. The Kotah Darbar claim that these notes and money, being part of an unused Political pension, should be returned to those who paid it.

6. The Jhalawar Darbar claim the whole estate on the ground that, when His Highness the present Raj-Rana of Jhalawar was selected to occupy the "Gadi" of Jhalawar he came into undisputed possession of all the personal property at Jhalrapatan, which had belonged to previous chiefs of the State. This right of succession to the personal property of the previous chiefs was due to his near relationship; and since he had an unquestioned right to inherit the property left by the Ex-Maharaj Rana at Jhalrapatan, he should be considered to have an equally good right to inherit the property left at Benares.

7. The Ex-Maharani Rathorji claims the entire estate on the ground that, her husband having left no other widows and no children and the property in question being his personal and self-acquired property, she is the sole heir thereto. She disclaims joint family connections with the present Chief of Jhalawar.

8. The issues therefore to be decided in this case seem to resolve themselves into the following:—

- (1) Is the property in question the personal and self-acquired property of the late Ex-Maharaj-Rana.
- (2) If so, is the Jhalawar Darbar or the Ex-Maharani Rathorji entitled to inherit it.
- (3) If the answer to the first issue is in the negative, is the Kotah Darbar entitled to a two-thirds share of the notes and cash? and who is entitled to the remainder of the property?

9. In regard to the first issue, it seems to be quite clear that the monthly allowance of Rs. 2,500 per mensem paid jointly by the Kotah and Jhalawar Darbars to the Ex-chief was given without any reservation. The Kotah Darbar argue that the "un-used political pension" cannot be treated as the personal and self-acquired property of the Ex-Maharaj-Rana, because it was never actually drawn by him and was therefore deposited in the Bank. At one time, they say, the question of withholding further payment of their annual contribution to the allowance was considered, since they learned that the Ex-Maharaj Rana was not drawing it, but it was decided by His Highness the Maharao that it would be neither fair nor advisable to adopt that course. This again seems to show that the payment of the allowance was intended to be without any reservation. The Jhalawar Darbar and the Ex-Maharani assert on the other hand, that from the moment the pension money sent by the two Darbars was received by the Political Agent for transmission to the Ex-Maharaj Rana, it became the Ex-Maharaj Rana's property. It was his to do what he liked with it. He could will it away, give it away, encumber it, or enjoy it in any way he pleased. I think, the latter view is undoubtedly correct. The

allowance was not placed to credit of a fund at the disposal of the Kotah and Jhalawar Darbars, but it was paid into the Bank to credit of the Ex-Maharaj Rana. It was given unconditionally and when once paid became the personal and self-acquired property of the Ex-Maharaj Rana.

10. I accordingly decide the first issue in the affirmative. This appears to dispose of the Kotah claim.

11. I may before passing to the next issue refer to an incidental point mentioned by the Kotah Darbar *viz.*, the fact that the Ex-Maharani Rathorji was provided, for her life-time, with a Jagir given from both Darbars. This is true, but it does not appear to affect in any way the arguments used above as to the character of the property left by the late Ex-Maharaj Rana. Whether the lady holds the Jagir or not, the decision on this particular issue must be as stated.

12. It will be seen, from the decision of the first issue, that the third issue does not arise.

13. Turning now to the second issue, the question for decision is whether the Jhalawar Darbar or the Ex-Maharani Rathorji is the rightful heir to the estate. This question involves the consideration of another point, *viz.*, whether this matter should be settled according to the ordinary principles of Hindu Law or whether the case is one which is affected by the traditions and customs of the chiefs of Rajputana. The Jhalawar Darbar base their claim on the relationship of the present chief to the late Ex-chief; the Ex-Maharani on the simple fact that she is the widow of and the nearest heir to the Ex-chief. If both the Raj Rana and the widow were private persons there could scarcely be any doubt as to the justice, under Hindu Law, of the widow's claim. The Raj Rana was not a very near relation of the late Ex-chief; he was not a member of the same joint family; and the (Mitakshara) Hindu Law lays down "that in default of male issue, joint with, or separate from, their father, the next heir is the widow."

The Jhalawar Darbar argue, however, that this maxim of Hindu Law is not applicable, in the case in question, because the
^aMayne's Hindu Law and usage page 731. Ex-Maharani had her separate Jagir and that therefore the question of inheritance and succession does not arise in her case. It is no doubt true that according to the custom prevailing among Ruling families in Rajputana the property of a chief ordinarily descends to his successor, due provision being made for the widow or widows, by way of Jagir or other maintenance. But it appears to me that there is a flaw in this argument of the Jhalawar Darbar so far as this particular case is concerned.

Had the property in question been state jewels or other property which passed in succession from one chief to another the Jhalawar Darbar might have been able to make good their claim. But there is a great difference between this property and the articles of the Obari and Toshakbana which the present chief alleges that he acquired, when he was selected to succeed the ex-chief Zalim Singh. The property which is in dispute here has all been acquired, so far as the evidence goes, since the ex-chief's deposition. From that time onwards the ex-chief must be regarded simply as a private person in the eyes of the law. The Jhalawar Darbar argue that family relationship cannot be
Q

created or destroyed at will; but the question is whether the customs which apply between a chief who dies and his successor can be extended to apply to a deposed chief, in respect of property acquired after his deposition. I think the answer to that question must undoubtedly be in the negative. The chief on his deposition becomes extinct as a chief, and relapses into a private person. The property he held, when he was deposed, may pass to his successor, but the property he acquired afterwards must be disposed of according to the ordinary rules of Hindu Law.

14. I do not think it is necessary to consider the arguments used by the Jhalawar Darbar which are based on the relations which existed between the Ex-chief and the Maharani Rathorji for they are immaterial.

There was no will; and the legal heir in the circumstances is the widow.

15. The result of my arbitration accordingly must be that the whole estate must pass to the ex-Maharani Rathorji.

(Sd.) E. G. COLVIN,

March 20th, 1914.

Agent to the Governor-General, Rajputana.

True copy.

(Sd.) R. E. A. HAMILTON, MAJOR,

*First Assistant to the Agent
to the Governor-General.*

Rajputana.

(ANNEXURE No. 17).

Extract from Sanad No. CLXI from Aitchison's Treaties, Engagements and Sanads Vol. III, Edition 4th, pages 402 and 403 granted by the British Government to Bhowani Singh son of Thakur Chhatarsal of Fatehpur on his accession to the Gadi of the reconstituted Chiefship of Jhalawar, 1899.

Whereas by a treaty, dated the 8th April, 1838, the British Government granted certain territories to Raj Rana Madan Singh, his heirs, and successors, being the descendants of Raj Rana Zalim Singh, according to the custom of succession obtaining in Rajwara; and whereas the line of the said Raj Rana Zalim Singh became extinct on the deposition of Maharaj Rana Zalim Singh; and whereas the said territories being now at the disposal of the Crown, Her Majesty the Queen, Empress of India, taking into consideration the intentions of the framers of the said Treaty has been graciously pleased to restore to His Highness Umed Singh Maharao of Kotah, a portion of the said territories equal to the share thereof originally contributed by the Kotah State; and whereas as an act of clemency and a proof of the desire of the British Government to maintain the existing political system of India, Her Majesty has assented that the remainder of the said territories shall be replaced under Native Rule and further shall, in memory of the services rendered by the said Raj Rana Zalim Singh, be reconstituted as a State under the suzerainty of Her Majesty and granted in that condition to a member of the said Raj Rana Zalim Singh's family; and whereas it is expedient to define the conditions subject to which the said State is granted; it is hereby declared as follows:—

1. You, Bhowani Singh, son of Thakur Chatar Sal of Fathpur, have been selected as Chief of the State of Jhalawar consisting of the pargannahs specified in the first schedule hereto annexed, and you are hereby granted the title of Raj Rana and a salute of 11 guns.

2. The Chiefship of the Jhalawar State, the right to administer the said State and the said title and salute will be hereditary in your own family, and will be continued to your lineal descendants, by blood or adoption according to the custom of succession recognised in Rajputana, provided that in each case the succession is approved by the Government of India.

3. The administration of the said State shall be conducted subject to such degree of supervision and political control, exercised in such manner, as the Governor-General in Council may from time to time determine.

* * * * *

FORT WILLIAM,

Dated the 30th January 1899.

(ANNEXURE No. 18).

Translation of Kharita, dated the 3rd December, 1900, from Colonel Berkeley, the Political Agent, Kotah, to the Ex-Maharani Rathorji of Jhalawar:

After the usual compliments—I have duly received your Kharita dated Mangsar Sudi 9 Sambat 1957, regarding your claim to obtain possession of the property of Rani Guheliji which the State has taken away and also relating to other matters. In reply I write to say that I have enquired the facts from the Dewan and that on my receiving an answer, I shall see what action it would be proper to take. I also request that I may be furnished with a detailed list of the property which has been taken possession of by the State, also what kind of articles they were and to whom they belonged.

XLVIII

(ANNEXURE No. 19.)

Copy of telegram dated the 13th September, 1900 from Raja Ram, Jhalrapatan City, to R. B. Babu Sham Sundar Lalji, Kishangarh.

Bhawani Singhji wishes to possess and join Goiliji's property in State after four days and Bai Sahib excuses while we have no connection with State now Our and Goilijis property owner is Darbar Zalimsinghji and I how Bhawani Singhji can possess our property Please try in this matter and wire instructions for us Reply sharp.

R

(ANNEXURE No. 20)

Copy of telegram dated the 10th November, 1900 from Raja Ram, Jhalrapatan to Rai Bahadur Babu Shyam Sunder Lalji Sabib, Dewan; Kishangarh.

Bhawanisinghji and Dewanji trespassed Baisahibs Deorhi without permission today evening and breaking Goiliji's wall and locks forcibly Please arrange.

(ANNEXURE No. 21.)

Extract from Chiefs and Leading Families in Rajputana, Edition Second, 1903, page 74.

* * * *

(2) Kaka Chatar Sal of Urmal is father to His Highness. He descended from Madho Singh, Foujdar of Kotah, great-grandfather of the First Raj Rana Zalim Singh. His grand-father,

Thakur Benai Singh, came to Jhalawar with Maharaj Rana Madan Singh and received a Jagir of two villages of the annual value of Rs. 1,325 paying Rs. 140 to the State every second year. These villages being situated in the territories transferred to Kotah, Kaka Chatar Sal was, on the formation of the new State, given three other villages instead, of the annual value of Rs. 2,300. He was granted an additional Jagir of 3 villages, in lieu of which he now receives a cash allowance of Rs. 500 a month. He was born in 1858 (1st Jeth Sudi 10, St. 1915).

(3) Kaka Arjun Singh of Kalmandi, a Jhala Rajput is descended from Madho Singh, great-grand-father of the First Raj Rana Zalim Singh. His great-grand father, Govind Singh,

accompanied Maharaj Rana Madan Singh to Jhalawar, and received a Jagir of 1 village (Kola) of the annual value of Rs. 1,501 out of which he had to pay Rs. 144 to the State every second year as tribute. The Jagir village being situated in the territories transferred to Kotah, he was, at the time of the formation of the new State, given two other villages instead, of the annual value of Rs. 2092. He pays 25 to the State as tribute. He is officer of the *paigah* (irregular horses), and receives pay and cash allowance amounting altogether to Rs. 100 a month in addition to his Jagir. He is of middle age and has no son. His younger brother, Thakur Chatarbhuj Singh, who was born in 1884, was educated at the Mayo College, Ajmer.

ANNEXURE NO. 22.

Pages LI—LII.

॥ १ ॥ श्री रामजी

ENCLOSURE No. 22.

Copy of Deed of Gift.

॥ तहरीर अज चफ श्री हजुर बहादुर जोक व्हाराणी राठोड़जी को
बहालत अपनी अगत्यारी के जो जेवर जड़ाज व मोत्या को व सोना को चा
नगदी रुप्या वागरा रीआसत सु बगसाऊ दीना क्व ईस जेवर व नगदी वागर
का रीआसत की चफ सु कीसो तरह कोई दसत अंदाजी न्ही करेगा
चे जेवर व रुप्या मेन पुषीच्छा तोरप्र न्ही दीना क्व वपुसी जाहीरा बगसाऊ
दीनो क्व क कीसी तरह का कोई आप सु जञ्च न्हीं करेगा अे तहरीर मेन
आप को लीष दीनी क्व क कोई तरह को आप सु जञ्च न्ही होगो अे तहरीर
आप वकत जरूरत के पेस कर देना भी. तारीष १० जनवरी सन १८६६ ई.

(Sd.) Zalim Singh.

Translation of the Deed of Gift executed by His Highness the Maharaj Rana in favour of his wife Her Highness the Maharani Rathorji dated the 10th January, 1896.

This written deed (These presents) proceeding from (in the name of) His Highness, the ruler of the State (Shri Huzur Bahadur): The articles of jewellery set with gems, and ornaments made of pearls and gold, and cash etc. have been given as presents by me from the State to the Maharani Rathorji in the (my) exercise of full powers (of Government), be it known that in respect of the afore-said jewellery, cash etc., there shall not be any kind of interference from any one on behalf of the State. This jewellery and cash, I have not given secretly (surreptitiously), but openly and of my own pleasure (free will and accord) have I given as presents, and that no one shall be entitled to ask Your Highness any questions regarding it (object to your possession). To this effect have I given in writing this document that no kind of objection may be taken to your possession and use (you may do whatever you please with them). You are at liberty to produce (to make use of) this document at such time as occasion may require (time demand).

(Sd). ZALIM SINGH.

January 10, 1896 A.D.

(ANNEXURE No. 23.)

Translation of an extract from the book "Waqaya Rajputana". (in Urdu)
Vol. III page 356 by Munshi Jwala Sahai, Edition 1879 A. D.

Captain Bruce in speaking of the Maharaj Rana Pirthi Singh of Jhalawar remarks as follows.—

For some years past there has been considerable objection amongst Indian Princes to recognise this Ruler as an independant Prince, the reason being that Jhalawar has become a separate State only since 1838, and because the proud Rajputs regard only those as respectable, the antiquity of whose families can be counted to extend over centuries. The existence of such objection is no matter or wonder. But it is a happy sign that this spirit of jealousy is gradually disappearing. Of course there is justification for Kotah for bearing such feeling of jealousy, because by the separation of Jhalawar, Kotah has sustained a great loss. But if the matter be properly considered, Kotah should rather be thankful than that it should complain against Jhalawar. For it should be remembered, that he who founded a new principality afterwards, had before added to Kotah more than equivalent territory; otherwise Kotah was comparatively a small State.

The Maharaj Rana (Prithi Singh) is a very good natured person. His Highness has made the acquaintance of several Princes of old Ruling Houses whereby his own prestige has been raised. The marriage of his daughter with the Maharaao Rajah of Alwar was celebrated in 1861. It was a great shock to his Highness that he lost two sons one after another, and that there was no heir of his body now left to succeed him (on the gaddi).

ANNEXURE No. 24.

Copy of a telegram dated the 24th August, 1912, from Benares City to the address of Maharaj Raghunath Singh Kishangarh.

Rajasahib calls Ranisahib several times in day what you settled to send Ranisahib Benares Please reply.

ANNEXURE No. 25.

Translation of an extract from a letter of a confidential servant on the staff of the Ex-Maharaj Rana at Benares to a trusted maid servant of the Ex-Maharani Rathorji Kishangarh, conveying His Highness's message.

* * * *

The Darbar (Ex-Maharaj Rana) often gives expression that the brother of the Raniji went away, having made a promise. But his promise has not proved to be true. He also seems to tell a lie. And supposing His Highness were willing to send servants to escort you, you know very well the number of attendants here is too small to spare any to fetch you. It is a matter of regret that there is none available to go. The state of things here is such that whosoever likes removes the articles. Do come soon, if you at all wish to. The Maharaj Rana Sahib's condition is better than before. Those people who carry tales to you that his condition is bad, they lie. Don't put your faith in any-one. It will all end well (by the grace of God). Come with all haste with all your followers. His Highness desires to give you authority (possession) over all the monies in deposit with the Bank (*i. e.* Promissory Notes). So when you come, you will become the owner (of this property). He is your Lord, and yon are the lord of his property.

ANNEXURE NO. 26.

Pages LVI—LVII.

v

ANNEXURE No. 26.

Extract from reported case, Vijayarangam Et al Vs Lakshman.

(8 Bombay H.C.R. 244-263 O.C.J.)

"We have seen that Vijnaneshwar includes all property inherited by a woman, in her Stridhan. In the same chapter (Mitak. Chapter II Section I Pl. 39) he had previously arrived, through an elaborate course of argument, at the conclusion that a widow takes the whole estate of her deceased husband separated in interest from his brethren. This doctrine, therefore, must have been fully present to his mind when he developed his theory of Stridhan in Section II. He makes no distinction between the inheritance of a woman from her husband and her inheritance from any other person. The right which he thus confers on her is balanced by a corresponding right which he allows to the husband and his Sapindas. That inheritance from a member of her own family, which on a woman's death would, according to the Bengal School, revert to the next heirs of him from whom she inherited (Colbrooke's Digest, Bk. V., T. 399, 477) and which, according to the Vyavahar mayukh would go to her heirs as though she had been a male, is assigned by Vijnaneshwar (Mitak. Chapter II, Sec. II pl. 9,12,25) to her daughters, her sons, and after them, to her husband and his Sapindas. The two rules spring from the same source-a higher conception of a woman's capacity for property, and of her complete identification by marriage with her husband's family, (o) than the Bengal lawyers would entertain; while the limiting of the widow's rights as an heir to the case of her husband's having been separated in interest from her brethren harmonizes more with the Hindu Theory of the united family than the opposite doctrine of her taking his share equally, whether the family have been divided or not.

"Vijnaneshwar, like all the Hindu Lawyers, denounces the appropriation of a woman's property by her husband, except in cases of great pressure and by the other kinsmen under any circumstances (Mitak. Chapter II Section II pl. 32, 33). But he lays down no rule as to the extent of the woman's own power over the property. The natural conclusion would seem to be that he considered this already sufficiently provided for as to his immediate subject, inheritance, by other lawyers, and by the analogies to be drawn from his rules as to the estates of a male proprietor. Now in Chapter I Section 1 pl. 27,28, it is laid down that a man is subject to the control of his sons and the rest (of those interested) in regard to the immovable estate, whether acquired by himself or inherited, though he may make a gift or sale of it for the relief of the family necessities or for pious purposes. It is clear, therefore, that a right of absolute disposal did not enter into Vijnaneshwar's conception of the essentials of ownership. He admits (Mitakshara Chapter II, Section I, pl. 25) genuineness and the authority of the text of Narad, which, with so many others, proclaims the dependence of women, which he says does not disqualify them for proprietorship. He allows a husband, as we have seen, in some cases to dispose of his wife's property. The inference to be gathered from these passages is strengthened if we look into his chief authorities. Manu allows women no independence. The verse denying it occurs in Yajnavalkya, also (Chapter I) Katyayana so frequently quoted in the Mitakshara, says that the widow is to enjoy the estate frugally

ANNEXURE No. 26.

Extract from reported case, Vijayarangam Et al Vs Lakshman.

(8 Bombay H.C.R. 244-263 O.C.J.)

" We have seen that Vijnaneshwar includes all property inherited by a woman, in her Stridhan. In the same chapter (Mitak. Chapter II Section I Pl. 39) he had previously arrived, through an elaborate course of argument, at the conclusion that a widow takes the whole estate of her deceased husband separated in interest from his brethren. This doctrine, therefore, must have been fully present to his mind when he developed his theory of Stridhan in Section II. He makes no distinction between the inheritance of a woman from her husband and her inheritance from any other person. The right which he thus confers on her is balanced by a corresponding right which he allows to the husband and his Sapindas. That inheritance from a member of her own family, which on a woman's death would, according to the Bengal School, revert to the next heirs of him from whom she inherited (Colbrooke's Digest, Bk. V., T. 399, 477) and which, according to the Vyavahar mayukh would go to her heirs as though she had been a male, is assigned by Vijnaneshwar (Mitak. Chapter II, Sec. II pl. 9,12,25) to her daughters, her sons, and after them, to her husband and his Sapindas. The two rules spring from the same source-a higher conception of a woman's capacity for property, and of her complete identification by marriage with her husband's family, (o) than the Bengal lawyers would entertain; while the limiting of the widow's rights as an heir to the case of her husband's having been separated in interest from her brethren harmonizes more with the Hindu Theory of the united family than the opposite doctrine of her taking his share equally, whether the family have been divided or not.

" Vijnaneshwar, like all the Hindu Lawyers, denounces the appropriation of a woman's property by her husband, except in cases of great pressure and by the other kinsmen under any circumstances (Mitak. Chapter II Section II pl. 32, 33). But he lays down no rule as to the extent of the woman's own power over the property. The natural conclusion would seem to be that he considered this already sufficiently provided for as to his immediate subject, inheritance, by other lawyers, and by the analogies to be drawn from his rules as to the estates of a male proprietor. Now in Chapter I Section 1 pl. 27,28, it is laid down that a man is subject to the control of his sons and the rest (of those interested) in regard to the immovable estate, whether acquired by himself or inherited, though he may make a gift or sale of it for the relief of the family necessities or for pious purposes. It is clear, therefore, that a right of absolute disposal did not enter into Vijnaneshwar's conception of the essentials of ownership. He admits (Mitakshara Chapter II, Section I, pl. 25) genuineness and the authority of the text of Narad, which, with so many others, proclaims the dependence of women, which he says does not disqualify them for proprietorship. He allows a husband, as we have seen, in some cases to dispose of his wife's property. The inference to be gathered from these passages is strengthened if we look into his chief authorities. Manu allows women no independence. The verse denying it occurs in Yajnavalkya, also (Chapter I) Katyayana so frequently quoted in the Mitakshara, says that the widow is to enjoy the estate frugally

till she die, and after her, the heirs (Colebrooke's Dig Bk V. I. 477) consistently with that passage of the Mahabharat (I 402) which limits the widow to simple enjoyment. Even Brihaspati, who as we have seen, insists emphatically on a widow's right of inheritance, is equally emphatical in restraining her power of dealing with it (Vyavahar-Mayukh Chapter IV Section VIII pl 3). His somewhat ambiguous expression cannot at any rate mean less than this. It seems a reasonable inference from those and other authorities that as to immovable property at any rate (and with immovable property, according to Hindu Law, is classed every kind of property producing a periodical income) the woman's ownership is subject to the control of her husband and of the other persons interested in the preservation of the estate and that it cannot be needlessly dissipated at her mere caprice. Katyayana, indeed, as quoted by Nilkantha (Vyavahar Mayukh Chapter IV Section VIII pl 4) says expressly "she has not property therein to the extent of gift, mortgage or sale except," as Nilkantha adds, "for appropriate purposes".

LVIII

ANNEXURE No. 27

Statement showing the names and income of the Jagir villages of Her Highness the late Ex-Maharani Rathorji of Jhalawar before and after the deposition of the Maharaj Rana Saheb.

Serial No.	Names of villages.				INCOME.	
		In 1891 A. D. (Samvat 1948).	In 1896 A. D. (Samvat 1953)			
1.	Ganeshpura	...	...	...	5,338	5,111
2.	Shyamian	...	...	...	6,000	5,902
3.	Alawa	...	...	...	3,151	2,687
4.	Ghatodi	...	...	...	5,390	5,670
5.	Gurdiya	...	...	...	2,030	1,763
6.	Lakhariya	...	...	...	2,827	3,017
		Total	...	24,736		24,170

LIX

ANNEXURE NO. 28.

Please see in the pocket of this book the above-mentioned annexure containing 9 Genealogical tables.

ANNEXURE No. 29

List of State Jewels given to Muharani Rathorji, as alleged by Jhalawar Darbar in their list.

Serial No.	Names.	No.	Weight.	Approxi- mate value.		Remarks.	
				Totals.	Mas.	Rat.	Rs.
1.	Tamnia (necklace) set with diamonds and pearls ...	1	30 5 0	5,500			Identified.
2.	Enamelled Rakhi set with pearls	1	.....	...			Not found in Kishangarh list.
3.	Nath (Nose ring) of peacocks set with diamonds and pearls with pendant of 3 large pearls	1	2 5 6	...			do.
4.	Champakali (Neck lace) set with diamonds with pendants of emerald and pearls	1	17 5 6	20,000			Identified
5.	Finger ring set with pearls and rubies	1	0 6 3	50			do.
6.	Mala (Necklace) with pendant set with diamond and emerald	1	6 4 3	...			Not found in Kishangarh list.
7.	Diamonds Hans (Necklace)	1	59 6 0	3,000			Identified.
8.	Bajris (bracelet) set with diamonds	2	22 2 7	2,000			do.
9.	Dal (bracelet) set with diamonds	2	18 1 0	2,000			do.
10.	Madlia (bracelet) set with diamonds	2	43 7 3	2,500			do.
11.	Kangan (bracelet) set with pearls and rubies ...	2	17 2 0	1,500			do.
12.	Pearls necklace of seven strings	1	12 2 0	...			Not found in Kishangarh list.
13.	Karanphul Jhumka (pendant) with pendant of pearls.	7	14 7 7	350			Identified.
14.	Tika (head ornament) set with diamonds with pendant of pearls	1	1 10 1	350			do.
15.	Jhuntna (pendant) set with diamonds with pendant of pearls	2	16 9 6	900			do.
16.	Pata (Necklace) set with emerald with pendant of pearls	1	17 1 1	400			do.
17.	Pipla patta (pendant) set with diamonds with pendant of pearls	6	4 2 3	1,300			do.
18.	Diamond Tika with pendant of emerald rubies and large pearls	1	4 5 0	...			Not found in Kishangarh list.
19.	Enamelled Bazuband (bracelet) set with diamonds	1	31 10 0	4500			Identified.
20.	Lum of Mandlias (bracelet) with pendant set with diamonds ..		10 4 4	600			Identified.

Serial No.	Names.	No.	Weight.	Approximate value.	REMARKS.
21.	Besar (Nose ornament) set with diamond and emerald	... 1	0 10	4 ...	Not found in Kishangarh list.
22.	Gulian (head ornament) set with pearls with four strings of pearls	... ... 2	8 6	0 1200	Identified.
23.	Pearls Gajras (bracelet)	... 2	10 8	3 150	Identified.
24.	Nath (Nose ring) of pearl peacocks with pendant of 2 pearls as large as Dungri plums	... 1	4 10	3 ...	Not found in Kishangarh list.
25.	Patia (Necklace) set with diamonds with top of pearls	1 20	3 2	3000	Identified.
26.	Ponchi (bracelet) set with pearls	2 9	8 2	...	Not found in Kishangarh list.
27.	Morpata (head ornament) with two peacocks set diamonds and rubies and pearl strings	2 12	0 4	25000	Identified
28.	Bala (Ear ring) set with diamonds with pendant of emeralds, rubies and pearls	... 2	16 7	4 ...	Not found in Kishangarh list.
29.	Amkana (earring) with pendant of pearls and emeralds	... 1	1 0	6 ...	Not found in Kishangarh list.
30.	Pazeb (an ankle ornament)	... 2	26 3	0 500	Identified.
31.	Pearl necklace of 7 strings with a pendant set with diamonds.	1 8	7 6	...	Not found in Kishangarh list.
32.	Hathphul (bracelet) set with diamonds, emeralds, and rubies	... ... 2	12 9	6 500	Identified.
33.	Pearl Pipal Pattas (Pendant) set with diamonds	... ... 2	3 8	4 1500	Identified.
34.	Enamelled Pipal Pattas with pendant of pearls	... ... 2	9 9	3 600	Identified.
35.	Nath (Nose ring) of peacocks set with diamonds with pendant of large pearls	... ... 1	3 1	2 8000	Identified.
36.	Karanphul set with diamonds with pendant of pearls	... 2	12 2	0 ...	Not found in Kishangarh list.
37.	Rakhri (head ornament) set with diamonds	... ... 1	1 0	7 700	Identified.
38.	Ponchi (bracelet) set Nauratan, diamonds etc.	... ... 2	7 8	2 200	Identified
39.	Karanphul set with Topaz with pendant of pearls	... ... 2	7 4	3 ...	Not found in Kishangarh list.
40.	Pipal Patta set with turmalas, with pendant of pearls	... 6	5 11	5 ...	Not found in Kishangarh list.

Total weight of gem set ornaments. 534 5 4

N.B.—(1) Identified means look similar from weight and description.

(2) Approximate values, means values as were pointed out in August 1924 by local exports.

ANNEXURE No. 30.

Copy of D. O. letter No. 252 dated the 5th November, 1925, from Dewan Bahadur K. L. Paonasker, C.I.E., M.A., Chief member of Council, Kishangarh, to Major D. M. Field, I.A., Resident at Jaipur, Jaipur.

I beg to give below a list of the documents which you were pleased to attest at my request on Monday last, in connexion with the Jhalawar Jewellery Case, as you might perhaps wish to have it on record in your office file.

The documents are:—

- (1) The Will of the late Ex.-Maharani Rathorji of Jhalawar.
- (2) The deed of gift made by the Ex.-Maharaj-Rana, before his deposition, in favour of the Maharani Rathorji.
- (3) The list of Jewellery dedicated to the Temple of Gusainji of Kotah by the Ex.-Maharani, in her own hand-writing.
- (4) Colonel Berkeley's Kharita to the Ex.-Maharani regarding her claim to the property left by Guheliji, her co-wife.

